Volume 25, Number 3
Pages 249–352
February 1, 2000

Rebecca McDowell Cook

Secretary of State

MISSOURI REGISTER

The *Missouri Register* is published semi-monthly by

Secretary of State
Rebecca McDowell Cook

Administrative Rules Division
State Information Center
600 W. Main
Jefferson City, MO 65101

ISSN 0149-2942, USPS 320-630; periodical postage paid at Jefferson City, MO
Subscription fee: $56.00 per year

POSTMASTER: Send change of address notices and undelivered copies to:

MISSOURI REGISTER
Office of the Secretary of State
Administrative Rules Division
P.O. Box 1767
Jefferson City, MO 65102

The *Missouri Register* and *Code of State Regulations* (CSR) are now available on the internet. The Register address is http://mosl.sos.state.mo.us/moreg/moreg.htm and the CSR is http://mosl.sos.state.mo.us/csr/csr.htm. These web sites contain rulemakings and regulations as they appear in the Registers and CSR. These web sites do not contain the official copies of the Registers and CSR. The official copies remain the paper copies published by the Office of the Secretary of State pursuant to sections 536.015, RSMo 1994 and 536.031, RSMo Supp. 1998. While every attempt has been made to ensure accuracy and reliability, the Registers and CSR are presented, to the greatest extent practicable as they appear in the official publications.

The secretary of state's office makes every effort to provide program accessibility to all citizens without regard to disability. If you desire this publication in alternate form because of a disability, please contact the Division of Administrative Rules, P.O. Box 1767, Jefferson City, MO 65102, (573) 751-4015. Hearing impaired citizens should contact the director through Missouri relay, (800) 735-2966.

MISSOURI REGISTER

February 1, 2000 Vol. 25 No. 3 **Pages 249–352**

IN THIS ISSUE:

Register Filing Deadlines	Register Publication	Code Publication	Code Effective
Nov. 1, 1999	**Dec. 1, 1999**	Dec. 31, 1999	Jan. 30, 2000
Nov. 15, 1999	**Dec. 15, 1999**	Dec. 31, 1999	Jan. 30, 2000
Dec. 1, 1999	**Jan. 3, 2000**	Jan. 30, 2000	Feb. 29, 2000
Dec. 15, 1999	**Jan. 14, 2000**	Jan. 30, 2000	Feb. 29, 2000
Jan. 3, 2000	**Feb. 1, 2000**	Feb. 29, 2000	March 30, 2000
Jan. 14, 2000	**Feb. 15, 2000**	Feb. 29, 2000	March 30, 2000
Feb. 1, 2000	**March 1, 2000**	March 31, 2000	April 30, 2000
Feb. 15, 2000	**March 15, 2000**	March 31, 2000	April 30, 2000
March 1, 2000	**April 3, 2000**	April 30, 2000	May 30, 2000
March 15, 2000	**April 17, 2000**	April 30, 2000	May 30, 2000
March 31, 2000	**May 1, 2000**	May 31, 2000	June 30, 2000
April 14, 2000	**May 15, 2000**	May 31, 2000	June 30, 2000
May 1, 2000	**June 1, 2000**	June 30, 2000	July 30, 2000
May 15, 2000	**June 15, 2000**	June 30, 2000	July 30, 2000
June 1, 2000	**July 3, 2000**	July 31, 2000	August 30, 2000
June 15, 2000	**July 17, 2000**	July 31, 2000	August 30, 2000
June 30, 2000	**August 1, 2000**	August 31, 2000	Sept. 30, 2000
July 14, 2000	**August 15, 2000**	August 31, 2000	Sept. 30, 2000

Documents will be accepted for filing on all regular workdays from 8:00 a.m. until 5:00 p.m. We encourage early filings to facilitate the timely publication of the *Missouri Register*. Orders of Rulemaking appearing in the *Missouri Register* will be published in the *Code of State Regulations* and become effective as listed in the chart above. Advance notice of large volume filings will facilitate their timely publication. We reserve the right to change the schedule due to special circumstances. Please check the latest publication to verify that no changes have been made in this schedule.

Missouri Depository Libraries

The *Missouri Register* and the *Code of State Regulations*, as required by the Missouri Depository Documents Law (section 181.100, RSMo 1994, are available in the listed depository libraries, as selected by the Missouri State Library:

Jefferson County Library
P.O. Box 1486, 3021 High Ridge
High Ridge, MO 63049-1486
(314) 677-8689

Jefferson College Library
1000 Viking Drive
Hillsboro, MO 63050-2441
(314) 789-3951

St. Louis Public Library
1301 Olive St.
St. Louis, MO 63103-2389
(314) 539-0376

St. Louis University Law Library
3700 Lindell Blvd.
St. Louis, MO 63108-3478
(314) 977-2756

Eden Theological Seminary/
Webster University
Eden/Webster Library
475 East Lockwood Ave.
St. Louis, MO 63119-3192
(314) 961-2660

Thomas Jefferson Library
University of Missouri-St. Louis
8001 Natural Bridge Road
St. Louis, MO 63121-4499
(314) 516-5084

Washington University
Washington University Law Library
Campus Box 1171, Mudd Bldg.,
One Brookings Dr.
St. Louis, MO 63130-4899
(314) 935-6484

St. Louis County Library
1640 S. Lindbergh Blvd.
St. Louis, MO 63131-3598
(314) 994-3300

Maryville University Library
13550 Conway Road
St. Louis, MO 63141-7232
(314) 529-9494

St. Charles City-County Library
Middendorf-Kredell Branch
2750 Hwy K
O'Fallon, MO 63366-7859
(314) 978-7997

Truman State University
Pickler Memorial Library
100 E. Normal
Kirksville, MO 63501-4221
(660) 785-7416

Learning Resources Center
Mineral Area College
P.O. Box 1000
Park Hills, MO 63601-1000
(573) 431-4593

Cape Girardeau Public Library
711 N. Clark
Cape Girardeau, MO 63701-4400
(573) 334-5279

Kent Library
Southeast Missouri State University
One University Plaza
Cape Girardeau, MO 63701-4799
(573) 651-2757

Riverside Regional Library
P.O. Box 389, 204 South Union St.
Jackson, MO 63755-0389
(573) 243-8141

Rutland Library
Three Rivers Community College
2080 Three Rivers Blvd.
Poplar Bluff, MO 63901-2393
(573) 840-9656

Charles F. Curry Library
William Jewell College
500 College Hill
Liberty, MO 64068-1896
(816) 781-7700

Ward Edwards Library
Central Missouri State University
142 Edwards Library
Warrensburg, MO 64093-5020
(660) 543-4149

Kansas City Public Library
311 East 12th St.
Kansas City, MO 64106-2454
(816) 701-3400

Law Library
University of Missouri-Kansas City
5100 Rockhill Road
Kansas City, MO 64110-2499
(816) 235-2438

University of Missouri-Kansas City
Miller Nichols Library
5100 Rockhill Road
Kansas City, MO 64110-2499
(816) 235-1281

B.D. Owens Library
Northwest Missouri State University
800 University Drive
Maryville, MO 64468-6001
(660) 562-1841

River Bluffs Regional Library
927 Felix Street
St. Joseph, MO 64501-2799
(816) 232-8151

Missouri Western State College
Hearnes Learning Resources Ctr.
4525 Downs Drive
St. Joseph, MO 64507-2294
(816) 271-5802

Library
North Central Missouri College
P.O. Box 111, 1301 Main Street
Trenton, MO 64683-0107
(660) 359-3948

Missouri Southern State College
Spiva Library
3950 East Newman Road
Joplin, MO 64801-1595
(417) 625-9770

Missouri State Library
600 West Main, P.O. Box 387
Jefferson City, MO 65102-0387
(573) 751-3075

Missouri State Archives
600 West Main, P.O. Box 778
Jefferson City, MO 65102-0778
(573) 526-6711

Elmer Ellis Library
University of Missouri-Columbia
104 Ellis Library
Columbia, MO 65211-5149
(573) 882-6733

Library
State Historical Society of Missouri
1020 Lowry St.
Columbia, MO 65201-7298
(573) 882-7083

Daniel Boone Regional Library
P.O. Box 1267, 100 West Broadway
Columbia, MO 65205-1267
(573) 443-3161

School of Law
University of Missouri-Columbia
224 Hulston Hall
Columbia, MO 65211-0001
(573) 882-1125

Central Methodist College
Smiley Memorial Library
411 Central Methodist Square
Fayette, MO 65248-1198
(660) 248-6292

Library
University of Missouri-Rolla
1870 Miner Circle
Rolla, MO 65409-0060
(573) 341-4007

Kinderhook Regional Library
135 Harwood Ave.
Lebanon, MO 65536-3017
(417) 532-2148

ESTEP Library
Southwest Baptist University
1601 S. Springfield Street
Bolivar, MO 65613-2597
(417) 326-5281

Barry-Lawrence Regional Library
213 6th St.
Monett, MO 65708-2147
(417) 235-6646

Lyons Memorial Library
College of the Ozarks
General Delivery
Point Lookout, MO 65726-9999
(417) 334-6411

West Plains Campus Library
Southwest Missouri State University
123 N. Minnesota
West Plains, MO 65775-3414
(417) 256-9865

Springfield-Greene County Library
P.O. Box 737, 397 E. Central
Springfield, MO 65801-0760
(417) 869-4621

Meyer Library
Southwest Missouri State University
P.O. Box 175, 901 S. National
Springfield, MO 65804-0095
(417) 836-4533

HOW TO CITE RULES AND RSMo

RULES—Cite material in the *Missouri Register* by volume and page number, for example, Vol. 24, *Missouri Register*, page 27. The approved short form of citation is 24 MoReg 27.

The rules are codified in the *Code of State Regulations* in this system—

Title	***Code of State Regulations***	**Division**	**Chapter**	**Rule**
1	CSR	10-	1.	010
Department		Agency, Division	General area regulated	Specific area regulated

They are properly cited by using the full citation , i.e., 1 CSR 10-1.010.

Each department of state government is assigned a title. Each agency or division in the department is assigned a division number. The agency then groups its rules into general subject matter areas called chapters and specific areas called rules. Within a rule, the first breakdown is called a section and is designated as (1). Subsection is (A) with further breakdown into paragraph 1., subparagraph A., part (I), subpart (a), item I. and subitem a.

RSMo—Cite material in the RSMo by date of legislative action. The note in parentheses gives the original and amended legislative history. The Office of the Revisor of Statutes recognizes that this practice gives users a concise legislative history.

Rules appearing under this heading are filed under the authority granted by section 536.025, RSMo Supp. 1999. An emergency rule may be adopted by an agency if the agency finds that an immediate danger to the public health, safety or welfare, or a compelling governmental interest requires emergency action; follows procedures best calculated to assure fairness to all interested persons and parties under the circumstances; follows procedures which comply with the protections extended by the *Missouri* and the *United States Constitutions*; limits the scope of such rule to the circumstances creating an emergency and requiring emergency procedure, and at the time of or prior to the adoption of such rule files with the secretary of state the text of the rule together with the specific facts, reasons and findings which support its conclusion that there is an immediate danger to the public health, safety or welfare which can be met only through the adoption of such rule and its reasons for concluding that the procedure employed is fair to all interested persons and parties under the circumstances.

Rules filed as emergency rules may be effective not less than ten days after filing or at such later date as may be specified in the rule and may be terminated at any time by the state agency by filing an order with the secretary of state fixing the date of such termination, which order shall be published by the secretary of state in the *Missouri Register* as soon as practicable.

All emergency rules must state the period during which they are in effect, and in no case can they be in effect more than 180 calendar days or 30 legislative days, whichever period is longer. Emergency rules are not renewable, although an agency may at any time adopt an identical rule under the normal rulemaking procedures.

Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 50—Missouri State Highway Patrol
Chapter 2—Motor Vehicle Inspection Division

EMERGENCY RULE

11 CSR 50-2.400 Emission Test Procedures

PURPOSE: This rule enacts the provisions of section 307.366, RSMo by describing the specifications of the inspection and maintenance program in order to reduce vehicle emissions in the St. Louis ozone nonattainment area.

EMERGENCY STATEMENT: Missouri is required by statute, Section 307.366 RSMo, to maintain a motor vehicle emission inspection program. All of the administrative rules that pertained to the previous motor vehicle emission inspection program became obsolete and were rescinded effective December 31, 1999. The rules became obsolete due to the new motor vehicle emission inspection program being implemented by the Department of Natural Resources. Therefore, this rule must be enacted to coincide with the emission inspection program which will be implemented beginning in April 2000. The Patrol finds an immediate danger to the health, safety and welfare to the citizens of Missouri and a compelling government interest, which requires emergency action. The scope of this emergency rule is limited to the circumstances creating the emergency and complies with the protections extended in the ***Missouri*** *and* ***United States Constitutions****. The Patrol believes this emergency regulation to be fair to all interested persons and parties under the circumstances. This emergency rule is filed January 3, 2000, effective April 1, 2000 and expires September 27, 2000.*

PUBLISHER'S NOTE: The publication of the full text of the material that the adopting agency has adopted by reference in this rule would be unduly cumbersome or expensive. Therefore, the full text of that material will be made available to any interested person at both the Office of the Secretary of State and the office of the adopting agency, pursuant to section 536.031.4, RSMo. Such material will be provided at the cost established by state law.

(1) Definitions.

(A) Definitions for key words used in this rule may be found in 11 CSR 50-2.010.

(B) Additional definitions specific to this rule are as follows:

1. Contractor—The State contracted company who shall implement and operate the motor vehicle emissions inspection program;

2. Control chart—Statistical method of showing graphically, determining, forecasting, and maintaining performance conditions and parameters in the pursuit of appropriate quality control;

3. DNR—The Department of Natural Resources;

4. Gross Vehicle Weight Rating (GVWR)—The value specified by the manufacturer as the maximum design loaded weight of a single vehicle;

5. Initial inspection—An inspection consisting of the test series that occurs the first time a vehicle is inspected in an inspection cycle. The required test fee is collected upon an initial inspection;

6. Light Duty Truck (LDT)—Any motor vehicle rated at eight thousand five hundred pounds (8,500) GVWR or less which has a vehicle curb weight of six thousand pounds (6,000) or less and which has a basic vehicle frontal area of forty-five (45) square feet or less, which is: designed primarily for purposes of transportation of property or is a derivation of such a vehicle; or designed primarily for transportation of persons and has a capacity of more than twelve (12) persons; or available with special features enabling off-street or off-highway operation and use;

7. Light Duty Vehicle (LDV)—A passenger car or passenger car derivative capable of seating twelve (12) passengers or less;

8. Qualifying repair—Any repair or adjustment performed on a vehicle's emission control system after failing an emissions inspection, that is appropriate to the test failure. Qualifying repairs shall include the repair or adjustment of emission control devices such that the requirements of parts (3)(H)1.B.(III)–(3)(H)1.B.(X) of this rule are satisfied;

9. Qualified repair technician—any person who—

A. Is professionally engaged in vehicle repair or employed by an ongoing business whose purpose is vehicle repair; and

B. Has valid certifications in National Institute for Automotive Service Excellence (ASE) Electrical Systems (A6) and Engine Performance (A8);

10. Steady state emission test—an engine exhaust emissions test in which the engine of a vehicle remains at a relatively uniform number of revolutions per minute; and

11. Unsafe condition—the mechanical and physical condition of a motor vehicle which an emissions inspector believes has the potential to cause harm to persons or property during the course of an emissions inspection.

(2) Applicability.

(A) Except as provided in subsection (2)(B) of this rule, subject vehicles include all vehicles operated on public roadways in the geographical area contained in the county of Franklin which are:

1. Registered in the area with the state of Missouri Department of Revenue;

2. Leased, rented, or privately owned and are not registered in the geographical area but are primarily operated in the area;

3. Owned or leased by federal, state, or local government agencies, and are primarily operated in the geographical area, but are not required to be registered by the state of Missouri; or

4. Owned, leased, or operated by civilian and military personnel on federal installations located within the geographical area, regardless of where the vehicles are registered.

(B) The following vehicles are exempt from this rule:

1. Motor vehicles with a manufacturer's GVWR in excess of eight thousand five hundred pounds (8500 lbs.);

2. Motorcycles and motor tricycles;

3. Model-year vehicles prior to 1971;

4. School buses;

5. Diesel-powered vehicles;

6. New motor vehicles not previously titled or registered, prior to the initial motor vehicle registration or the next succeeding registration which is required by law; and

7. Motor vehicles registered in the area covered by this section, but which are based and operated exclusively in an area of this state not subject to the provisions of this section if the owner of the vehicle presents to the director a sworn affidavit that the vehicle will be based and operated outside the covered area.

(3) General Requirements.

(A) Compliance with emission standards. Motor vehicles subject to this rule shall demonstrate compliance with emission standards in this rule. Such demonstration shall be made through the inspection procedures and be completed on the schedule specified in this rule. Completion of the scheduled demonstration is necessary for vehicle initial registration, registration renewal, or registration transfer. Failure to complete a scheduled vehicle emission inspection before registration shall be a violation of this rule.

(B) Vehicle Emission Inspection Interval. Vehicles subject to this rule, shall have their vehicle emission inspected on an annual basis except for those owners that elect to have their vehicle emission inspected on a biennial basis.

(C) Emission Inspection Period. An emission inspection performed on a subject vehicle is valid, for the purposes of obtaining registration or registration renewal, for a period of sixty (60) days.

(D) Fleets.

1. Fleet test facilities. Vehicle fleets of five hundred (500) vehicles or greater may be officially inspected outside of the centralized emission inspection stations designated for the general public, if the fleet test facilities are approved by the DNR. Vehicle fleets using such fleet testing facilities shall be subject to the same test requirements and quality control standards as nonfleet vehicles. Owners or operators of such vehicle fleets shall use the state contractor to conduct the emission inspection tests. Owners or operators may make repairs to fleet vehicles on site. Fleet test facilities shall be subject to at least as stringent quality assurance evaluations as public inspection stations.

2. Vehicle fleets less than five hundred (500). Vehicle fleets of ten (10) vehicles or greater shall be given special consideration at public test facilities. The DNR shall require operators of emission inspection test facilities to accommodate fleets with special hours, scheduling appointments during hours not open to the public, and providing a voucher payment system.

(E) Emission Inspection Fee.

1. The vehicle owner or driver shall pay ten dollars and fifty cents ($10.50) to the centralized emission inspection station.

2. This fee shall also include free reinspections, provided the vehicle owner or driver complies with all reinspection requirements as required in subsection (3)(G) of this rule, and the reinspections are conducted within twenty (20) consecutive days of the initial inspection excluding Saturday, Sunday and holidays.

(F) Vehicle Inspection Process. The emission inspection shall consist of emission tests and functional tests, which shall be subject to the following requirements:

1. Annual Inspection Process.

A. If a subject vehicle is targeted for a voluntary or mandatory manufacturer's emission recall notice issued after July 1, 1995, the vehicle owner or operator shall present to the emission inspection station proof of compliance with the recall notice;

B. A vehicle shall not be inspected if all or part of the exhaust system is missing, leaking, or if the vehicle is in an unsafe condition. If a motor vehicle is refused for inspection then the inspector shall give the motorist a form that identifies the reasons for inspection refusal. No fee shall be charged for this inspection;

C. The vehicle owner or driver shall have access to an area in the inspection station that permits observation of the entire official inspection procedure of the vehicle tested. This access may be limited, but it shall not prevent observation;

D. Vehicles shall be inspected in as-received condition. An official inspection, once initiated, shall be performed in its entirety regardless of immediate outcome, except in the case of an invalid test condition, or unsafe conditions;

E. The initial inspection shall be performed without repair or adjustment at the emission inspection station prior to commencement of any tests, except as provided for in the evaporative system pressure and purge tests. Emission inspections performed after the initial inspection in an inspection cycle shall be considered a reinspection and are subject to provisions of subsection (3)(G) of this rule;

F. If a subject vehicle passes all emission inspection requirements within a complete inspection cycle, the emission inspection station shall issue the vehicle owner or driver an emission inspection certificate of compliance certifying that the vehicle has passed the emission inspection, and place an emission inspection sticker on the windshield of the subject vehicle. The positioning of the sticker on the windshield of the vehicle shall take place on the premises of the emission inspection station;

G. If a subject vehicle fails any phase of the emission inspection requirements, the emission inspection station shall provide the vehicle owner or driver with an emission inspection test report indicating which part(s) of the emission inspection that the vehicle failed, a list of repair facilities employing at least one (1) qualified repair technician, a repair data sheet, and a copy of the customer complaint procedure;

H. If a subject vehicle fails any part of the emission inspection, the vehicle owner must have the vehicle repaired and complete a repair data sheet before submitting the vehicle for reinspection; and

I. If the subject vehicle fails a reinspection, the vehicle owner can apply for a compliance waiver. If all waiver requirements as prescribed in subsection (3)(H) of this rule are met, a waiver shall be issued by the DNR approved inspector at the emission inspection station.

2. Biennial Inspection Process.

A. All biennial emission inspections shall be performed in counties that have an emission inspection program pursuant to sections 643.300–350 RSMo.

B. The vehicle owner who have chosen a biennial emission inspection shall take their vehicle to an emission inspection station in any county meeting the criteria set in 643.300–350 RSMo. The vehicle owner shall be subject to the inspection fee and inspection procedures pursuant to 10 CSR 10-5.380.

(G) Reinspection.

1. Reinspection procedure. All vehicles that require a reinspection are required to receive a visual emission control device inspection. Vehicles that fail any part of the initial inspection or a reinspection shall be reinspected after repairs, to determine if the repairs were effective for correcting failures on the previous inspection. To the extent that repairs done to correct a previous failure could lead to failure of another portion of the inspection, that portion shall also be retested. Evaporative system repairs performed as a result of a vehicle failing either the evaporative system purge or pressure test will be cause for a complete reinspection covering all the initial inspection requirements. The reinspection shall be performed without repair or adjustment at the emission inspection station prior to tests, except as provided for in the evaporative system pressure and purge tests.

2. Repair data sheet. For a reinspection, the vehicle owner or driver shall present the previous emission inspection test results report and the completed repair data sheet to the inspection station. Whether repairs were performed by the owner, a qualified repair technician, or someone other than a qualified repair technician, the repair data sheet must be completed and presented to the DNR approved inspector at the emission inspection station.

3. Reinspection fees. To qualify for free reinspections, the vehicle owner or driver shall present the emission inspection test report and the completed repair data sheet to the emission inspection station within twenty (20) consecutive days, excluding Saturday, Sunday and holidays of the initial emission. Reinspections after the twenty (20)-day period shall only be performed upon payment of the full emission inspection test fee to the emission inspection station.

(H) Issuance of a Waiver.

1. The DNR, assistant station manager, or station manager at the emission inspection station shall issue an emission inspection certificate of compliance, with an indicator to show that the vehicle has received a waiver to the vehicle owner or driver, and an emissions inspection sticker shall be affixed to the subject vehicle provided the following waiver requirements are met:

A. The subject vehicle has failed the initial emission inspection, and has failed a reinspection(s) after all qualifying repairs have been completed. As prescribed in paragraph (3)(G)2. of this rule, a completed repair data sheet for the failed initial inspection and for all failed reinspections in the applicable inspection cycle must also be presented to the DNR approved inspector at the emission inspection station when applying for a waiver;

B. The amount spent on qualifying repairs shall—

(I) Exceed seventy-five dollars ($75) for pre-1981 model year vehicles;

(II) Exceed two hundred dollars ($200) for 1981 and later model year vehicles;

(III) Include parts costs and labor costs paid for qualifying emission repair services performed on the vehicle if paid by the vehicle owner and if the qualifying repairs were performed or supervised by a qualified repair technician as prescribed in part (3)(H)1.C.(IV) of this rule. For qualifying emission repair services performed by someone other than a qualified repair technician, parts costs, but not labor costs, shall be counted toward the minimum cost to qualify for a waiver;

(IV) Be appropriate to the test failure;

(V) Not include expenses which are incurred for the repair of emission control devices which have been found to be tampered with, rendered inoperative, or removed;

(VI) Not include costs for emissions repairs or adjustments covered by an automobile manufacturer's warranty, insurance policy, or contractual maintenance agreement. The emissions repair costs covered by warranty, insurance, or maintenance agreements shall be separated from other emissions repair costs and shall not be applied toward the waiver cost limitations. The operator of a vehicle within the statutory age and mileage coverage under subsection 207(b) of the federal Clean Air Act shall present a written denial of warranty coverage, with a complete explanation, from the manufacturer or authorized dealer in order for this provision to be waived;

(VII) Not include the fee for an emission inspection;

(VIII) Not include charges for obtaining a written estimate of needed repairs;

(IX) Not include charges for checking for the presence of emission control devices; and

(X) Not include costs for repairs performed on the vehicle before the initial inspection failure;

C. The vehicle owner or driver shall present the original of all repair receipts at the inspection station to demonstrate compliance with the qualifying dollar amount. The DNR, assistant station manager, or station manager issuing a waiver shall verify emission-related repairs by visually inspecting the vehicle and reviewing repair receipts. The receipts shall—

(I) Include the name, address, and phone number of the repair facility;

(II) Describe the repairs that were performed;

(III) State the labor costs (where applicable) and parts costs for each repair; and

(IV) Include the name (printed or typed) and signature of the qualified repair technician that performed or supervised the repair work (where applicable); and

D. The vehicle owner or driver shall present a completed, signed waiver affidavit provided by the contractor to DNR, assistant station manager, or station manager at the emission inspection station indicating the costs of repairs and stating that the repairs were made in an attempt to meet the appropriate emission standards. After the effective date of this rule, any revision to the contractor supplied forms will be presented to the regulated community for a forty-five (45) day comment period.

2. The DNR, assistant station manager, or station manager shall issue an emission inspection certificate of compliance, with an indicator to show that the vehicle has received a waiver to the vehicle owner or driver and an emissions inspection sticker shall be affixed to the subject vehicle provided the vehicle owner or driver presents a completed, signed waiver affidavit to the DNR approved inspector indicating that the vehicle will be operated exclusively in an area outside of the inspection area for a period of at least the next twelve (12) months.

3. The DNR, assistant station manager, or station manager shall issue an emission inspection certificate of compliance with an indicator to show that the vehicle has received a waiver to the vehicle owner or driver and an emissions inspection sticker shall be affixed to the subject vehicle provided the vehicle owner or driver presents proof, acceptable to DNR, assistant station manager, or station manager, that the subject vehicle has successfully passed an emission inspection of another state within the previous twelve (12) months which has been deemed equivalent to Missouri's emission inspection by the DNR.

(I) Vehicle Registration. After a subject vehicle has passed the emission inspection or received a waiver, the emission inspection certificate of compliance issued by the emission inspection station shall be submitted with registration documents by the vehicle owner or representative to the Missouri Department of Revenue at the time of vehicle registration.

(J) Violations and Penalties. Persons violating this rule shall be subject to penalties contained in section 307.366, RSMo.

(4) Emission Standards. Subject vehicles shall fail the steady-state (idle test) if they exceed the following measured emission values:

(A) Idle test standards for light duty vehicles and trucks less than eight thousand five hundred (8,500 lbs.) pounds GVWR.

Model Year	CO%	HC (PPM)
1971–1974	7.0	700
1975–1979	6.0	600
1980	3.0	300
1981 and newer	1.2	220

(B) Maximum exhaust dilution will be measured as no less than six percent (6%) carbon monoxide (CO) plus carbon dioxide (CO_2) by volume on vehicles subject to a steady-state test as described in July 1998, Title 40 CFR part 51, subchapter S, Appendix B, which is adopted by reference;

(C) Vehicles registered by the Department of Revenue as specially constructed vehicles shall be subject to emission standards applicable to the EPA certified engine configuration with which the vehicle is equipped.

(5) Test Procedures.

(A) Idle Test. Idle tests shall be performed on 1971 and newer model year subject vehicles in accordance with the procedures contained in July 1998, Title 40 CFR part 51, subpart S, Appendix B, paragraph (I), which is adopted by reference, except that the appropriate measured emission values shall be as specified in subsection (4)(A).

(B) Visual Emission Control Device Inspection. Visual emission control device inspections shall be performed on 1971 and newer model year subject vehicles. Vehicles that meet the emission standards, and successfully pass the evaporative system purge and pressure test, if applicable, shall be excluded from meeting the requirements of the visual emission control device inspection as part of an initial inspection only. The visual emission control device inspection procedure shall be as follows:

1. Vehicle emission control device inspections shall be performed through direct observation or through indirect observation using a mirror, video camera or other visual aid. Visual inspection shall include the positive crankcase ventilation valve on all 1971 model year vehicles, the exhaust gas recirculation valve on all 1972 and newer model year vehicles, and the catalyst and fuel inlet restrictor on all 1984 and newer model year vehicles;

2. Vehicles shall fail the visual inspections of emission control devices if such devices are part of the original certified configuration of the vehicle and are found to be missing, modified, disconnected, or improperly connected; and

3. Vehicles shall fail visual inspections of emission control devices if these devices are found to be incorrect for the certified vehicle configuration. Aftermarket parts, as well as original equipment manufacturer parts, may be considered correct if they are proper for the certified vehicle configuration. Where EPA aftermarket approval or a self-certification program exists for a particular class of subject parts, vehicles shall fail visual equipment inspections if the part is not from an original equipment manufacturer or from an approved or self-certified aftermarket manufacturer.

(C) Evaporative System Purge Test. The DNR will approve an Evaporative System Purge Test when a nonintrusive procedure becomes available and is approved by the EPA. All 1981 and newer model year subject vehicles will be tested and required to meet these standards when the procedure is approved.

(D) Evaporative System Pressure Test. Until such time as the DNR approves an Evaporative System Pressure Test that is more comprehensive, nonintrusive, and is approved by the EPA, the evaporative system pressure test procedure shall be as follows:

1. A gas cap test, done to the extent practical, shall be performed on all 1981 and newer model year subject vehicles;

2. The gas cap test sequence shall consist of the following steps:

A. The gas cap will be connected to the adapter of the test equipment;

B. The gas cap shall be pressurized with air to 30 $\pm$ 0.5 inches of water;

C. The gas cap leak rate shall be compared to an orifice with a flow rate of sixty (60) cubic centimeters per minute at thirty inches (30") of water;

3. Vehicles shall fail the gas cap test if the gas cap exceeds a flow rate of sixty (60) cubic centimeters per minute; and

4. A visual inspection of the evaporative emission system shall also be performed, where practical. Vehicles shall fail the visual inspection of the evaporative emission system if the canister is missing or obviously damaged, if the hoses are missing, damaged or obviously disconnected, or if the gas cap is missing.

(E) On-Board Diagnostic (OBD) Test Procedures.

1. All 1996 and later model year vehicles equipped with OBD systems shall have the OBD system information collected, recorded, and read. Reports shall be generated. The information shall be used to determine if any emission control system faults have been identified. Fault codes shall not be a condition for failure.

2. The DNR shall require vehicle failures tied to readings from the OBD system beginning no later than January 1, 2001. Vehicles shall fail the on-board diagnostic test if they fail to meet the requirements of 40 CFR 85.2207, at a minimum.

(6) Emission Test Equipment.

(A) Performance Features of Emission Test Equipment. Computerized test systems are required for performing any measurement on subject vehicles. The test equipment shall be certified to meet EPA requirements, including those contained in July 1998, Title 40 CFR part 51, subpart S, Appendix D, which is adopted by reference. Newly acquired systems shall be subjected to acceptance test procedures to ensure compliance with program specifications.

1. Emission test equipment shall be capable of testing all subject vehicles and will be updated as needed to accommodate new technology vehicles as well as changes to the program.

2. At a minimum, emission test equipment shall be—

A. Automated to the highest degree commercially available to minimize the potential for intentional fraud and/or human error;

B. Secure from tampering and/or abuse;

C. Based upon written specifications; and

D. Capable of simultaneously sampling dual exhaust vehicles.

(B) Functional Characteristics of Computerized Test Systems. The test system is composed of emission measurement devices and other motor vehicle test equipment controlled by a computer.

1. The test system shall automatically—

A. Make pass/fail decisions for all measurements;

B. Record test data to an electronic medium;

C. Conduct regular self-testing of recording accuracy;

D. Perform electrical calibration and system integrity checks before each test, as applicable; and

E. Initiate system lockouts for—

(I) Tampering with security aspects of the test system;

(II) Failing to conduct or pass periodic calibration or leak checks;

(III) Failing to conduct or pass the constant volume sampler flow rate check;

(IV) Failing to conduct or pass the pressure monitoring device check;

(V) Failing to conduct or pass the purge flow metering system check; and

(VI) A full data recording medium or one that does not pass a cyclical redundancy check.

2. Test systems shall include a data link to the DNR computer as specified in the contract between the DNR and the contractor(s).

3. The test system will ensure accurate data collection by limiting, cross-checking, and/or confirming manual data entry.

(C) Steady-State Test Equipment. Steady-state test equipment requirements for model years 1971–1980 shall be as specified in July 1998, Title 40 CFR part 51, subpart S, Appendix D, which is adopted by reference.

(7) Documentation.

(A) The contractor shall provide the owners or drivers of vehicles that pass the emission inspection or are issued a waiver an emission inspection certificate of compliance and emission inspection sticker. After the effective date of this rule, any revision to the contractor supplied forms will be presented to the regulated community for a forty-five (45) day comment period.

1. The certificate of compliance shall contain—

A. A vehicle description, including license plate number, vehicle title number, vehicle identification number, vehicle make, vehicle model, vehicle model year, and odometer reading;

B. The date and time of inspection;

C. The applicable test standards;

D. The applicable test results, including exhaust quantities, a pass indicator for the evaporative system pressure test(s), a pass indicator for visual inspection of the evaporative system and a pass indicator for the visual emission control device inspection;

E. The results of the recall provisions check, if applicable, including the recall campaign number and the date the recall repairs were completed;

F. A certification that tests were performed in accordance with the regulations;

G. A waiver indicator, if applicable; and

H. The statement: "This inspection is mandated by your United States Congress."

2. The emission inspection sticker shall—

A. Be affixed by the emission inspector to each vehicle which is subject to and passes the emission inspection, or has been issued a waiver on the inside of the vehicle's front windshield in the lower left hand corner. An emission inspection sticker affixed to a vehicle that has been issued a waiver shall have a waiver indicator clearly visible on the sticker. Previous emission inspection stickers affixed to the windshield shall be removed. Destroyed, damaged, or lost stickers can only be replaced after a satisfactory explanation of the details of the incident has been furnished to the DNR. Stickers are valid for one (1) calendar year; and

B. Contain the statement: "This inspection is mandated by your United States Congress."

(B) The contractor shall provide the vehicle owner or driver who fails an inspection with a computer-generated emission inspection test report. Also provided will be a repair facility list, a repair data sheet, and a copy of the consumer complaint procedure. The contractor shall not refer vehicle owners to a particular repair station(s) that may or may not be included on the repair facility list. After the effective date of this rule, any revision to the contractor supplied forms will be presented to the regulated community for a forty-five (45) day comment period.

1. The emission inspection test report shall include:

A. A vehicle description, including license plate number, vehicle title number, vehicle identification number, vehicle make, vehicle model, vehicle model year, and odometer reading;

B. The date and time of test;

C. The name or identification number of the individual(s) performing the test and the location of the test station and lane number;

D. The type of tests performed, including emission tests, visual checks for the presence of emission control components, and functional evaporative system tests;

E. The applicable test standards;

F. The test results, including exhaust quantities, pass/fail results for the evaporative system pressure test(s), pass/fail results for the visual inspection of the evaporative system and which emission control devices inspected were passed, failed, or not applicable;

G. To the extent possible, a description of the nature of the failure and the components responsible, recommended repair and adjustment procedures, and an estimated cost for those repairs;

H. A statement indicating the availability of warranty coverage as required in section 207 of the Clean Air Act;

I. The results of the recall provisions check, if applicable, including the recall campaign number and date the recall repairs were completed; and

J. A statement that the emission inspection test report is not valid for vehicle registration purposes.

2. The repair facilities list will list facilities employing at least one (1) qualified repair technician in the area which perform emission related repairs on vehicles and information on the results of emission repairs performed by these facilities. This information will include:

A. Statistics on the number of vehicles submitted for a reinspection after repairs by the repair facility;

B. The percentage of vehicles repaired by the repair facility that required more than one (1) reinspection before passing; and

C. The percentage of vehicles repaired by the repair facility that were granted waivers.

3. A repair data sheet must be completed prior to a reinspection. The repair data sheet shall include:

A. Repairs performed;

B. Cost of repairs;

C. Name of the repair technician; and

D. Name, address, and telephone number of the repair facility and the facility's state number.

4. The consumer complaint procedure will include the telephone number of the DNR's quality assurance facility. Any challenge regarding the performance or results of the test must be made in writing within ten (10) business days of the failure of the emission inspection.

(8) Quality Control.

(A) Quality Control Requirements for the Contractor(s).

1. Contractor conduct. The DNR shall appoint only entities under contractual agreement with the DNR to operate official emission inspection stations, which includes conducting emission inspections and issuing certificates of compliance. Conducting the business of the official emission inspection station shall be performed in such a way that it satisfies the intent of the vehicle emission inspection program by effectively identifying vehicles that fail to meet acceptable emission standards. Failure to comply with the provisions of this subsection shall be considered sufficient cause for suspension of emission inspection privileges and authority to issue certificates of compliance. Misconduct of the contractor as established in this rule and in the contract shall be a violation of this rule and may result in dismissal as an emission inspection station operator. The contractor shall pay a monetary penalty to the DNR for a violation of this rule or of the contract by contractor personnel. Violations shall include, but are not limited to, actions which result in improper or fraudulent issuance of a certificate of compliance or a compliance waiver. The penalty shall be determined by a penalty schedule established in the contract.

2. Emission inspectors. All contractor personnel who perform emission inspections at each emission inspection station will be designated by the contractor as an emission inspector. The contractor shall be responsible for the conduct of emission inspectors. The contractor shall maintain for the DNR a registry of designated emission inspectors, that at a minimum includes the inspector's name, Social Security number, beginning date of inspection duties, ending date of inspection duties and description of inspection per-

formance. Designation as an emission inspector may be suspended by a DNR quality assurance officer immediately at any time due to a violation of this rule or a provision of the contract. The contractor shall provide to the DNR an education and training plan, to be approved by the DNR, for designated emission inspectors.

3. Inspection records. All inspection records, calibration records, and control charts shall be accurately created, recorded, and maintained. The contractor, and all employees of the contractor, shall make available all records and information requested by the DNR and shall fully cooperate with DNR personnel, and other authorized state representatives or agents, who conduct audits and other quality assurance procedures. All contractors subject to this rule shall maintain emissions test records, including repair information from any emissions test as well as all test results. These records shall be kept for at least three (3) years after date of an initial emissions inspection. These records shall be made available immediately upon request for review by DNR personnel. These records shall also be made available to the DNR on a continual basis through the use of an automated communication system approved by the DNR.

(B) General Requirements. General requirements for quality control practices for all test equipment shall be as follows:

1. At a minimum, the practices described in this section, in the contract, and in July 1998, Title 40 CFR part 51, subpart S, Appendix A, which is adopted by reference, shall be followed;

2. Preventive maintenance on all inspection equipment shall be performed on a periodic basis, as provided by the contract between the DNR and the contractor(s) and consistent with EPA and the equipment manufacturer's requirements;

3. To assure quality control, computerized analyzers shall automatically record quality control check information, lockouts, attempted tampering and any circumstances which require a service representative to work on the equipment;

4. To assure test accuracy, equipment shall be maintained according to demonstrated good engineering procedures;

5. Computer control of quality assurance checks and quality control charts shall be used whenever possible; and

6. The emission inspection station shall transmit the emission inspection results to the DNR as prescribed in the contract between the DNR and the contractor(s).

(C) Requirements for Steady-State Emissions Testing Equipment. Calibration and maintenance procedures for steady-state emissions testing equipment shall be described in July 1998, Title 40 CFR part 51, subpart S, Appendix A, paragraph (I), which is adopted by reference.

AUTHORITY: section 307.366, RSMo ***Supp. 1999****. Original rule filed Aug. 4 1983, effective Nov. 11, 1983. Amended: Filed Sept. 12, 1984, effective Jan. 1, 1985. Amended: Filed April 12, 1987, effective June 25, 1987. Rescinded: Filed May 31, 1990, effective Dec. 31, 1990. Emergency rule filed Jan. 3, 2000, effective April 1, 2000, expires Sept. 27, 2000. A proposed rule covering this same material is published in this issue of the* ***Missouri Register****.*

Under this heading will appear the text of proposed rules and changes. The notice of proposed rulemaking is required to contain an explanation of any new rule or any change in an existing rule and the reasons therefor. This is set out in the Purpose section with each rule. Also required is a citation to the legal authority to make rules. This appears following the text of the rule, after the word "Authority."

Entirely new rules are printed without any special symbology under the heading of the proposed rule. If an existing rule is to be amended or rescinded, it will have a heading of proposed amendment or proposed rescission. Rules which are proposed to be amended will have new matter printed in boldface type and matter to be deleted placed in brackets.

An important function of the *Missouri Register* is to solicit and encourage public participation in the rulemaking process. The law provides that for every proposed rule, amendment or rescission there must be a notice that anyone may comment on the proposed action. This comment may take different forms.

If an agency is required by statute to hold a public hearing before making any new rules, then a Notice of Public Hearing will appear following the text of the rule. Hearing dates must be at least 30 days after publication of the notice in the *Missouri Register.* If no hearing is planned or required, the agency must give a Notice to Submit Comments. This allows anyone to file statements in support of or in opposition to the proposed action with the agency within a specified time, no less than 30 days after publication of the notice in the *Missouri Register*.

An agency may hold a public hearing on a rule even though not required by law to hold one. If an agency allows comments to be received following the hearing date, the close of comments date will be used as the beginning day in the 90-day-count necessary for the filing of the order of rulemaking.

If an agency decides to hold a public hearing after planning not to, it must withdraw the earlier notice and file a new notice of proposed rulemaking and schedule a hearing for a date not less than 30 days from the date of publication of the new notice.

Proposed Amendment Text Reminder:
Boldface text indicates new matter.
[Bracketed text indicates matter being deleted.]

Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 4—Wildlife Code: General Provisions

PROPOSED AMENDMENT

3 CSR 10-4.115 Special Regulations for Department Areas. The department proposes to amend paragraphs (1)(P)2. and 10.

PURPOSE: This amendment opens Jerry P. Combs Lake to public fishing and establishes a fifteen-inch (15") minimum length limit on the lake's largemouth bass.

(1) The special regulations in this rule apply on all lands and waters (referred to as areas) owned, leased or managed under formal cooperative agreement by the Department of Conservation. The director may issue temporary written exceptions to provisions of this rule for emergency or special events and for other compatible uses.

(P) Fishing. Fishing, under statewide seasons, methods and limits, is permitted, except as further restricted in this rule.

1. Fishing may be further restricted on designated portions of conservation areas.

2. Fishing is prohibited on the following conservation areas or individually named lakes:

A. Allred Lake Natural Area
B. Rudolf Bennitt Lake
C. Robert L. Blattner
D. Burr Oak Woods
[E. Jerry P. Combs Lake]
[F.] **E.** Gama Grass Prairie
[G.] **F.** Gay Feather Prairie
[H.] **G.** Charles W. Green
[I.] **H.** Happy Holler Lake
[J.] **I.** Hunkah Prairie
[K.] **J.** Little Osage Prairie
[L.] **K.** Chloe Lowry Marsh Natural Area
[M.] **L.** Mo-Ko Prairie
[N.] **M.** Mon-Shon Prairie
[O.] **N.** Mount Vernon Prairie
[P.] **O.** Niawathe Prairie
[Q.] **P.** Pawhuska Prairie
[R.] **Q.** Powder Valley Conservation Nature Center
[S.] **R**. Springfield Conservation Nature Center
[T.] **S.** Turtle Rock Lake
[U.] **T.** Tzi-Sho Prairie
[V.] **U.** Wah-Kon-Tah Prairie (only on portion owned by the Nature Conservancy)
[W.] **V.** Wah-Sha-She Prairie
[X.] **W.** Henry J. Waters II and C.B. Moss Memorial Wildlife Area

PUBLISHER'S NOTE: Paragraphs (1)(P)3.–9. remain as published in the Code of State Regulations.

10. Length limits. Statewide length limits shall apply for all species, except as further restricted in this rule.

A. On all impoundments, except as authorized in parts (1)(P)10.A.(I)–(V), all black bass more than twelve inches (12") but less than fifteen inches (15") total length must be returned to the water unharmed immediately after being caught.

(I) All black bass less than twelve inches (12") total length must be returned to the water unharmed immediately after being caught on the following conservation areas:

(a) Bois D'Arc
(b) Knob Noster State Park Lakes
(c) Malta Bend Community Lake
(d) Painted Rock
(e) Peabody
(f) Haysler A. Poague
(g) Robert E. Talbot
(h) Van Meter State Park Lake

(II) All black bass less than fifteen inches (15") total length must be returned to the water unharmed immediately after being caught on the following conservation areas:

(a) Amarugia Highlands
(b) Arrow Rock State Historic Site
(c) Atkinson Lake
(d) Baltimore Bend
(e) Big Oak Tree State Park
(f) Bilby Ranch Lake
(g) Binder Community Lake

(h) Bismarck
(i) Buffalo Bill Lake
(j) August A. Busch Memorial (except Lakes 33 and 35)
(k) Che-Ru Lake
(l) Jerry P. Combs Lake
[(l)] **(m)** Confederate Memorial State Park Lakes
[(m)] **(n)** Deer Ridge Lake
[(n)] **(o)** Fourche Lake
[(o)] **(p)** General Watkins
[(p)] **(q)** Jamesport Community Lake
[(q)] **(r)** Limpp Community Lake
[(r)] **(s)** Little Compton Lake
[(s)] **(t)** Loggers Lake
[(t)] **(u)** Lone Jack Lake
[(u)] **(v)** Maple Leaf Lake
[(v)] **(w)** McCormack Lake
[(w)] **(x)** Noblett Lake
[(x)] **(y)** Nodaway County Community Lake
[(y)] **(z)** Perry County Community Lake
[(z)] **(aa)** Pershing State Park Ponds
[(aa)] **(bb)** Pony Express
[(bb)] **(cc)** Ray County Community Lake
[(cc)] **(dd)** James A. Reed Memorial Wildlife Area
[(dd)] **(ee)** Rinquelin Trail Community Lake
[(ee)] **(ff)** Roby Lake
[(ff)] **(gg)** Schell Lake
[(gg)] **(hh)** Ted Shanks
[(hh)] **(ii)** Tobacco Hills Lake
[(ii)] **(jj)** Union Ridge Lake
[(jj)] **(kk)** Vandalia Community Lake
[(kk)] **(ll)** Watkins Mill State Park Lake
[(ll)] **(mm)** Weldon Spring
[(mm)] **(nn)** Worth County Community Lake

(III) On Bellefontaine Conservation Area, August A. Busch Memorial Lakes 33 and 35, Belcher Branch Lake, Robert G. DeLaney Lake, Lake Paho, Manito Lake and Port Hudson Lake, all black bass less than eighteen inches (18") total length must be returned to the water unharmed immediately after being caught.

(IV) On Blind Pony Lake Conservation Area, all black bass less than twenty inches (20") total length must be returned to the water unharmed immediately after being caught.

(V) On Hazel Hill Lake, all black bass more than fourteen inches (14") but less than eighteen inches (18") total length must be returned to the water unharmed immediately after being caught.

B. On August A. Busch Memorial Conservation Area and James A. Reed Memorial Wildlife Area, all white bass, striped bass and their hybrids less than twenty inches (20") total length must be returned to the water unharmed immediately after being caught.

C. On Blind Pony Lake Conservation Area, Hazel Hill Lake and Manito Lake Conservation Area, all channel catfish and all blue catfish less than fifteen (15") total length must be returned to the water unharmed immediately after being caught.

D. On August A. Busch Memorial Conservation Area, Che-Ru Lake, James A. Reed Memorial Wildlife Area and Schell-Osage Conservation Area, all flathead catfish less than twenty-four inches (24") total length must be returned to the water unharmed immediately after being caught.

E. On Tobacco Hills Lake, all bluegill less than eight inches (8") total length must be returned to the water unharmed immediately after being caught.

F. On Lake Girardeau Conservation Area and Henry Sever Conservation Area, all muskellunge less than forty-two inches (42") total length must be returned to the water unharmed immediately after being caught.

11. Salvage seining of nongame fish may be permitted seasonally for personal use with written permission of the department.

12. Seining or trapping live bait, including tadpoles, is prohibited on streams in Mule Shoe Conservation Area and on all impounded waters and their discharge channels, except as further defined in this rule.

A. Seining or trapping live bait, including tadpoles, is permitted on designated impoundments on Bob Brown Conservation Area, Fountain Grove Conservation Area, Grand Pass Conservation Area and Nodaway Valley Conservation Area.

B. On designated waters on Schell-Osage Conservation Area, gizzard shad may be taken by live bait methods.

13. On Wire Road Conservation Area, nongame fish may be taken by snagging, snaring, or grabbing from March 15 to May 15. A daily limit of twenty (20) and a possession limit of forty (40) shall apply to fish taken by these methods.

14. On Prairie Lake on Weldon Spring Conservation Area, fishing is prohibited during the area's prescribed waterfowl hunting season.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. This version of rule filed Dec. 15, 1975, effective Dec. 27, 1975. For intervening history, please consult the ***Code of State Regulations****. Amended: Filed Dec. 20, 1999.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with John W. Smith, Deputy Director, Department of Conservation, P.O. Box 180, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 6—Wildlife Code: Sport Fishing: Seasons, Methods, Limits

PROPOSED AMENDMENT

3 CSR 10-6.405 General Provisions. The department proposes to amend subsection (1)(C).

PURPOSE: This amendment modifies reciprocal fishing privileges with Nebraska on the Missouri River.

(1) Fish, mussels and clams, bullfrogs and green frogs, turtles and live bait may be taken only as provided in this chapter or as further restricted in 3 CSR 10-4.115, 3 CSR 10-4.116 or other rules as noted.

(C) Reciprocal Privileges: Mississippi, Missouri and St. Francis Rivers.

1. All reciprocal privileges outlined in this rule shall be contingent upon a grant of like privileges by the appropriate neighboring state to the licensed or exempted hook and line anglers of Missouri.

2. Regulations of the state where the angler is licensed shall apply in Arkansas*[,]* **and** Tennessee *[and Nebraska]* boundary waters. Missouri regulations shall apply in the Missouri portion of Illinois, Kentucky**, Nebraska** and Kansas boundary waters. Anglers licensed in Illinois **and Nebraska**, when fishing in waters in which they are not licensed to fish by Missouri, shall comply

with the most restrictive laws and regulations of the two (2) states.

3. Anglers must be licensed in Missouri to fish in tributaries of the Mississippi, Missouri and St. Francis Rivers.

4. Anglers licensed in Arkansas, Illinois, Kansas, Kentucky or Tennessee may not fish from or attach any device or equipment to land under the jurisdiction of Missouri.

5. Anglers licensed in Nebraska may fish from or attach any device or equipment to land under the jurisdiction of Missouri.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. Original rule filed June 13, 1994, effective Jan. 1, 1995. Amended: Filed May 30, 1995, effective Jan. 1, 1996. Amended: Filed June 11, 1997, effective March 1, 1998. Amended: Filed May 10, 1999, effective March 1, 2000. Amended: Filed Aug. 11, 1999, effective March 1, 2000. Amended: Filed Dec. 20, 1999.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with John W. Smith, Deputy Director, Department of Conservation, P.O. Box 180, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 100—Division of Credit Unions
Chapter 2—State-Chartered Credit Unions

PROPOSED AMENDMENT

4 CSR 100-2.190 Special Shares and Thrift Accounts. The director of the Division of Credit Unions proposes amendments to section (2) of this rule that governs special shares and thrift accounts.

PURPOSE: This amendment is designed to ensure that in the event of a liquidation, uninsured thrift accounts will be inferior in rank to general and special shares and will not have the right to prior payment over general or special shares.

(2) A thrift account shall be available only to nonmembers of the credit union. The terms and conditions under which any type thrift account is to be authorized shall be passed upon by the board of directors. Thrift accounts which are **not** insured by the National Credit Union Share Insurance Fund (NCUSIF) will *[not]* be *[superior]* **inferior** in rank to *[or]* **and will not** have the right to prior payment over *[all]* general *[and]* **or** special shares. *[Thrift accounts which are not insured by the NCUSIF will have the right to prior payment over all general and special shares unless action is taken by the board of directors to designate and give written notice to the investor that the thrift account is neither insured nor given superior rank.]*

AUTHORITY: sections 370.100, RSMo 1994 ***and 370.350, RSMo Supp. 1999****. Original rule filed Dec. 15, 1975, effective Dec. 25, 1975. Amended: Filed June 8, 1976, effective Sept. 11, 1976. Amended: Filed Sept. 10, 1981, effective Dec. 11, 1981. Emergency amendment filed Feb. 14, 1984, effective Feb. 24, 1984, expired June 23, 1984. Amended: Filed March 12, 1984, effective June 11, 1984. Amended: Filed Nov. 20, 1997, effective June 30, 1998. Amended: Filed Dec. 17, 1999.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Division of Credit Unions, John P. Smith, Director, P.O. Box 1607, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 120—State Board of Embalmers and Funeral Directors
Chapter 2—General Rules

PROPOSED AMENDMENT

4 CSR 120-2.100 Fees. The board is proposing to amend subsection (1)(N).

PURPOSE: This amendment establishes a biennial license for funeral establishments.

(1) The following fees hereby are established by the State Board of Embalmers and Funeral Directors:

(N) Establishment Application Fee *[$100.00]* **$200.00**

AUTHORITY: section 333.111.1, RSMo [Supp. 1998] ***Supp. 1999****. Emergency rule filed June 30, 1981, effective July 9, 1981, expired Nov. 11, 1981. Original rule filed June 30, 1981, effective Oct. 12, 1981. For intervening history, please consult the* ***Code of State Regulations****. Amended: Filed Dec. 30, 1999.*

PUBLIC COST: This proposed amendment is estimated to cost state agencies or political subdivisions less than $500 in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than $500 in the aggregate as the board is merely going to a biennial license for funeral establishments.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the State Board of Embalmers and Funeral Directors, Patricia A. Handly, Executive Director, 3605 Missouri Boulevard, P.O. Box 423, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 150—State Board of Registration for the Healing Arts
Chapter 2—Licensing of Physicians and Surgeons

PROPOSED AMENDMENT

4 CSR 150-2.080 Fees. The board is proposing to amend subsections (1)(A), (1)(K), and (1)(O).

PURPOSE: The board is proposing an amendment to this rule as the State Board of Registration for the Healing Arts will no longer collect the examination service fee. The proposed fees to be

reduced are the examination fee, reciprocity licensure fee, and fee for receiving Certificate of the National Board of Medical Examiners of the United States, chartered under the laws of the District of Columbia and of the National Board of Examiners for Osteopathic Physicians and Surgeons, chartered under the laws of the state of Indiana.

(1) The following fees are established by the State Board of Registration for the Healing Arts:

(A) Examination Fee *[$450.00]* **$300.00**
(K) Reciprocity Licensure Fee *[$450.00]* **$300.00**
(O) Fee for receiving the Certificate of the National Board of Medical Examiners of the United States, chartered under the laws of the District of Columbia and of the National Board of Examiners for Osteopathic Physicians and Surgeons chartered under the laws of the state of Indiana *[$450.00]* **$300.00**

AUTHORITY: sections 334.090.2, [and 610.026,] RSMo 1994 and 334.125 ***and 610.026****, RSMo [(Supp. 1995)]* ***Supp. 1999****. Emergency rule filed July 1, 1981, effective July 11, 1981, expired Nov. 8, 1981. Original rule filed July 14, 1981, effective Oct. 11, 1981. For intervening history, please consult the* ***State Code of Regulations****. Amended: Filed Dec. 30, 1999.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the State Board of Registration for the Healing Arts, P.O. Box 4, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 255—Missouri Board for Respiratory Care
Chapter 1—General Rules

PROPOSED AMENDMENT

4 CSR 255-1.040 Fees. The board is proposing to amend subsections (1)(L) and (1)(N) and the authority section.

PURPOSE: The purpose of this amendment is to change the annual license renewal fee to a biennial license renewal fee and to change the annual inactive license renewal fee to a biennial inactive license renewal fee and adjust these fees accordingly to comply with the provisions of C.C.S. S.C.S. H.C.S. H.B. 343 of the 90th General Assembly.

(1) The following fees are established by the Division of Professional Registration and are payable in the form of a cashier's check, personal check, or money order:

(L) *[Annual]* **Biennial** License Renewal Fee *[$50.00]***$100.00**
(N) *[Annual]* **Biennial** Inactive License Renewal Fee *[$15.00]***$30.00**

AUTHORITY: sections 334.800, 334.840.2, [and] 334.850, [RSMo Supp. 1997] ***334.880*** *and 610.026, RSMo [1994]* ***Supp. 1999****. Emergency rule filed June 25, 1998, effective July 6, 1998, expired Feb. 25, 1999. Original rule filed June 25, 1998, effective Jan. 30, 1999. Amended: Filed Dec. 30, 1999.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than $500 in the aggregate as the board is merely going to a biennial renewal license.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board of Respiratory Care, P.O. Box 1335, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 255—Missouri Board for Respiratory Care
Chapter 2—Licensure Requirements

PROPOSED AMENDMENT

4 CSR 255-2.040 License Renewal. The board is proposing to amend section (1) and the authority section.

PURPOSE: The purpose of this amendment is to change the license renewal requirements from annual to biennial to comply with the provisions of C.C.S. S.C.S. H.C.S. H.B. 343 of the 90th General Assembly.

(1) All licenses shall be renewed *[annually]* **biennially**. Failure of a licensee to renew the license shall cause the license to lapse. Failure to receive notice shall not relieve the licensee of the obligation to renew the license to practice as a respiratory care practitioner and pay the required fee prior to the expiration date of the license. Deposit of the renewal fee by the division or board does not indicate acceptance of the renewal application or that any licensing requirements have been fulfilled. Renewals shall be postmarked no later than the expiration date of the license or if the expiration date is a Sunday or federal holiday the next day to avoid the late penalty fee as defined in rules promulgated by the board.

AUTHORITY: sections 334.800, 334.840.2, 334.850, 334.880.1, 334.910 and 334.920, RSMo [Supp. 1997] ***Supp. 1999****. Original rule filed June 25, 1998, effective Jan. 30, 1999. Amended: Filed Dec. 30, 1999.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board of Respiratory Care, P.O. Box 1335, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 255—Missouri Board for Respiratory Care
Chapter 2—Licensure Requirements

PROPOSED AMENDMENT

4 CSR 255-2.050 Inactive Status. The board is proposing to amend section (1) and the authority section.

PURPOSE: The purpose of this amendment is to change the inactive license renewal requirements from annual to biennial to comply with the provisions of C.C.S. S.C.S. H.C.S. H.B. 343 of the 90th General Assembly.

(1) An inactive license shall be renewed *[annually]* **biennially**. Failure to receive renewal notice shall not relieve the licensee of the obligation to renew the inactive license and pay the required fee prior to the expiration date of the inactive license. Renewals shall be postmarked no later than the expiration date of the license to avoid the late renewal penalty fee as defined in rules promulgated by the board.

AUTHORITY: sections 334.800, 334.840.2, 334.850, 334.880.1, 334.910 and 334.920, RSMo [Supp. 1997] Supp. 1999. Original rule filed June 25, 1998, effective Jan. 30, 1999. Amended: Filed Dec. 30, 1999.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than $500 in the aggregate as the board is merely going to a biennial renewal license.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board of Respiratory Care, P.O. Box 1335, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 255—Missouri Board for Respiratory Care
Chapter 2—Licensure Requirements

PROPOSED AMENDMENT

4 CSR 255-2.060 Reinstatement. The board is amending subsection (2)(E) and the authority section.

PURPOSE: The purpose of this amendment is to change the continuing education requirements for reinstatement of a lapsed license of a respiratory care practitioner to conform with biennial renewal requirements as in accordance with the provisions of C.C.S. S.C.S. H.C.S. H.B. 343 of the 90th General Assembly.

(2) Failure of a licensee to renew a license for a period of more than sixty (60) days after the expiration of the license, will result in the license lapsing, unless the licensee submits payment of the late renewal penalty.

(E) Proof of completion, within the preceding *[twelve (12) months]* **continuing education reporting period** of the application for reinstatement, of *[twelve (12)]* **twenty-four (24)** hours of continuing education approved by the board.

AUTHORITY: sections 334.800, 334.840.2, 334.850, 334.870, 334.880.[2]1, 334.910 and 334.920, RSMo [Supp. 1997] Supp. 1999. Original rule filed June 25, 1998, effective Jan. 30, 1999. Amended: Filed Dec. 30, 1999.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than $500 in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board of Respiratory Care, P.O. Box 1335, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 255—Missouri Board for Respiratory Care
Chapter 3—Supervision

PROPOSED AMENDMENT

4 CSR 255-3.010 Supervision of Permit Holders. The board is amending sections (1)–(3), proposing a new section (8) and deleting the form that immediately follows this rule in the *Code of State Regulations*.

PURPOSE: The purpose of this amendment is to clarify the supervision requirements for permit holders.

(1) Permit holders shall be allowed to perform the services of a respiratory care practitioner under direct clinical supervision pursuant to section 334.890.4, RSMo. The permit holder shall perform services according to the supervisor's direction, control and *[full professional responsibility]* **oversight**. For the purposes of this rule, direct clinical supervision requires that the supervisor or the supervisor's designee must be immediately available for communication with the supervisee and the supervisor must be able to provide a licensed respiratory care practitioner on-site within thirty (30) minutes of notification.

(2) The supervisor of a permit holder shall maintain control, oversight, guidance and *[full professional]* responsibility concerning a patient receiving respiratory care services from a permit holder.

(3) A supervisor of a temporary permit holder or temporary educational permit holder shall be currently licensed by the board. **In the supervisor's absence, s/he may specify a designee to serve as a supervisor for the temporary permit holder or temporary educational permit holder. The supervisor's designee shall be a licensed respiratory care practitioner.**

(8) If a temporary permit holder or temporary educational permit holder works at multiple facilities or organizations, the temporary permit holder or temporary educational permit holder shall have a supervisor at each facility or organization at which the permit holder works.

AUTHORITY: sections 334.800, 334.840.2, 334.850, 334.890.4, 334.910 and 334.920, RSMo [Supp. 1997] Supp. 1999. Emergency rule filed June 25, 1998, effective July 6, 1998, expired Feb. 25, 1999. Original rule filed June 25, 1998, effective Jan. 30, 1999. Amended: Filed Dec. 30, 1999.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than $500 in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board of Respiratory Care, P.O. Box 1335, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 255—Missouri Board for Respiratory Care
Chapter 4—Continuing Education Requirements

PROPOSED AMENDMENT

4 CSR 255-4.010 Continuing Education Requirements. The board is amending sections (1) and (8).

PURPOSE: The purpose of this amendment is to change the continuing education requirements for renewal of a license of a respiratory care practitioner to conform with biennial renewal requirements as in accordance with the provisions of C.C.S. S.C.S. H.C.S. H.B. 343 of the 90th General Assembly and to establish a continuing education reporting period.

(1) As a condition for renewal of a license, all respiratory care practitioners are required to complete *[twelve (12)]* **twenty-four (24)** hours of approved continuing education in the practice of respiratory care as defined by section 334.800(11), RSMo in the *[year]* **continuing education reporting period** preceding renewal of the license. **The continuing education reporting period is the twenty-four (24)-month period beginning on January 1 of even numbered years and ending on December 31 of odd numbered years.** No more than *[six (6)]* **twelve (12)** hours credit will be awarded for home study *[per renewal period]* **during each continuing education reporting period**. The licensee is exempt from continuing education requirements for the first renewal period after initial licensing.

(8) A licensee shall be responsible for maintaining his/her records of continuing education activities. Each licensee shall maintain for a period of *[four (4) years]* **not less than the preceding two (2) continuing education reporting periods prior to renewal**, documentation verifying completion of the appropriate number of continuing education hours for each renewal period.

*AUTHORITY: sections 334.800, 334.840.2, 334.850, 334.910 and 334.920, RSMo [Supp. 1997] **Supp. 1999**. Original rule filed June 25, 1998, effective Jan. 30, 1999. Amended: Filed Dec. 30, 1999.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than $500 in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board of Respiratory Care, P.O. Box 1335, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 10—Air Conservation Commission
Chapter 5—Air Quality Standards and Air Pollution Control Rules Specific to the St. Louis Metropolitan Area

PROPOSED AMENDMENT

10 CSR 10-5.390 Control of Emissions From Manufacture of Paints, Varnishes, Lacquers, Enamels and Other Allied Surface Coating Products. The commission proposes to amend paragraph (4)(F)1. If the commission adopts this rule action, it will be submitted to the U.S. Environmental Protection Agency to replace the current rule in the Missouri State Implementation Plan.

PURPOSE: The purpose of the proposed amendment is to clarify the intent of the rule and clearly define the requirements of compliance.

(4) Operating Equipment and Operating Procedure Requirements.

(F) The polymerization of synthetic varnish or resin shall be done in a completely enclosed operation with the VOC emissions controlled by the use of surface condensers or equivalent controls.

1. If surface condensers are used, the temperature of the exit stream shall not exceed the temperature at which the vapor pressure is 3.5 kPa (0.5 psi) for *[any]* **the overall** organic compound *[in]* **composition of** the exit stream.

2. If equivalent controls are used, the VOC emissions must be reduced by an amount equivalent to the reduction which would be achieved under paragraph (4)(F)1. Any owner or operator desiring to use equivalent controls to comply with this subsection shall submit proof of equivalency as part of the control plan required under subsection (5)(A) of this rule. Equivalent controls may not be used unless approved by the director.

*AUTHORITY: section 643.050, RSMo [1994] **Supp. 1999**. Original rule filed Oct. 13, 1983, effective March 11, 1984. Amended: Filed Oct. 4, 1988, effective March 11, 1989. Amended: Filed Jan. 3, 2000.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than $500 in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing on this proposed amendment will begin at 9:00 a.m., March 30, 2000. The public hearing will be held at the Days Inn, Hwy. 63 South, Kirksville, Missouri. Opportunity to be heard at the hearing shall be afforded any interested person. Written request to be heard should be submitted at least seven days prior to the hearing to Roger D. Randolph, Director, Air Pollution Control Program, 205 Jefferson Street, P.O. Box 176, Jefferson City, MO 65102-0176, (573) 751-4817. Interested persons, whether or not heard, may submit a written statement of their views until 5:00 p.m., April 6, 2000. Written comments shall be sent to Chief, Planning Section, Air Pollution Control Program, 205 Jefferson Street, P.O. Box 176, Jefferson City, MO 65102-0176.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 7—Water Quality

PROPOSED AMENDMENT

10 CSR 20-7.015 Effluent Regulations. The commission is amending sections (2), (3), (6), (8) and (9).

PURPOSE: This amendment clarifies prohibition of wastewater discharges to L1 lake watersheds, provides relief from pH limits in a few specific situations, relaxes effluent limits for combined sewer overflows and deletes an exemption that allows the discharge of mine dewatering water in some watersheds otherwise established as no-discharge areas.

(2) Effluent Limitations for the Missouri and Mississippi Rivers.

(B) Discharges from wastewater treatment facilities which receive primarily domestic waste or from publicly-owned treatment works (POTWs) shall undergo treatment sufficient to conform to the following limitations:

1. Biochemical Oxygen Demand$_5$ (BOD_5) and nonfilterable residues (NFRs) equal to or less than a monthly average of thirty milligrams per liter (30 mg/l) and a weekly average of forty-five milligrams per liter (45 mg/l);

2. pH shall be maintained in the range from six to nine (6–9) standard units;

3. Exceptions to paragraphs (2)(B)1. and 2. are as follows:

A. If the facility is a wastewater lagoon, the NFRs shall be equal to or less than a monthly average of eighty (80) mg/l and a weekly average of one hundred twenty (120) mg/l and the pH shall be maintained above 6.0, and the BOD_5 shall be equal to or less than a monthly average of forty-five (45) mg/l and a weekly average of sixty-five (65) mg/l;

B. If the facility is a trickling filter plant, the BOD_5 and NFRs shall be equal to or less than a monthly average of forty-five (45) mg/l and a weekly average of sixty-five (65) mg/l;

C. Where the use of effluent limitations set forward in this section is known or expected to produce an effluent that will endanger or violate water quality, the department will set specific effluent limitations for individual dischargers to protect the water quality of the receiving streams. When a waste load allocation or a total maximum daily load study is conducted for a stream or stream segment, all permits for discharges in the study area shall be modified to reflect the limits established in the study;

D. The department may require more stringent limitations than authorized in subsections (3)(A) and (B) under the following conditions:

(I) If the facility is an existing facility, the department may set the BOD_5 and NFR limits based upon an analysis of the past performance, rounded up to the next five (5) mg/l range; and

(II) If the facility is a new facility, the department may set the BOD_5 and NFR limits based upon the design capabilities of the plant considering geographical and clima*/c/*tic conditions.

(a) A design capability study has been conducted for new lagoon systems. The study reflects that the effluent limitations should be BOD_5 equal to or less than a monthly average of forty-five (45) mg/l, a weekly average of sixty-five (65) mg/l, NFRs equal to or less than a monthly average of seventy (70) mg/l and a weekly average of one hundred ten (110) mg/l.

(b) A design capability study has been conducted for new trickling filter systems and the study reflects that the effluent limitations should be BOD_5 and NFRs equal to or less than a monthly average of forty (40) mg/l and a weekly average of sixty (60) mg/l; and

E. If the facility is a POTW wastewater treatment facility providing at least primary treatment during a precipitation event and discharges on a noncontinuous basis, the discharge may be allowed *[subject to the following:]* **provided that**

[(I)] BOD_5 and NFRs **are** equal to or less than a weekly average of forty-five (45) mg/l*[;]*. **The NFR (total suspended solids) limit may be higher than forty-five (45) mg/l for combined sewer overflow treatment devices when organic solids are demonstrated to be an insignificant fraction of total inorganic storm water generated solids, and the permittee can demonstrate that achieving a limit of forty-five (45) mg/l is not cost effective relative to water quality benefits. In these cases, an alternative total suspended solids limit would be developed;**

[(II) pH shall be maintained in the range from six to nine (6–9) standard units; and]

[(III) Only the wastewater in excess of the capacity of the noncontinuous wastewater treatment plant hydraulic capacity may be discharged;]

4. Fecal coliform. Discharges to the Mississippi from the Missouri-Iowa line down to Lock and Dam 26 shall not contain more than a monthly average of four hundred (400) fecal coliform colonies per one hundred milliliters (100 ml) and a daily maximum of one thousand (1,000) fecal coliform colonies per one hundred milliliters (100 ml) from April 1 to October 31. The department may waive or relax this limitation if the owner or operator of the wastewater treatment facility can demonstrate that neither health nor water quality will be endangered by failure to disinfect*[.]*;

5. Sludges removed in the treatment process shall not be discharged. Sludges shall be routinely removed from the wastewater treatment facility and disposed or used in accordance with a sludge management practice approved by the department; and

6. When the wastewater treatment process causes nitrification which affects the BOD_5 reading, the permittee can petition the department to substitute carbonaceous BOD_5 in lieu of regular BOD_5 testing. If the department concurs that nitrification is occurring, the department will set a carbonaceous BOD_5 at five (5) mg/l less than the regular BOD_5 in the operating permit.

(3) Effluent Limitations for the Lakes and Reservoirs.

(D) For lakes designated in 10 CSR 20-7.031 as L1, which are primarily used for public drinking water supplies, there will be no discharge **into the watersheds above these lakes** from domestic or industrial wastewater sources regulated by these rules. Discharges from potable water treatment plants, such as filter wash, may be permitted. Separate storm sewers will be permitted, but only for the transmission of storm water. Discharges permitted prior to the effective date of this requirement may continue to discharge so long as the discharge remains in compliance with its operating permit.

(6) Effluent Limitations for Special Streams.

(A) Limits for Wild and Scenic Rivers and Ozark National Scenic Riverways and Drainages Thereto.

1. The following limitations represent the maximum amount of pollutants which may be discharged from any point source, water contaminant source or wastewater treatment facility to waters included in this section.

2. Discharges from wastewater treatment facilities which receive primarily domestic waste or from POTWs are limited as follows:

A. New releases from any source other than POTW facilities are prohibited;

B. Discharges from sources that existed before June 29, 1974, or if additional stream segments are placed in this section, discharges that were permitted at the time of the designation will be allowed;

C. Discharges from POTWs; and

D. Releases from the permitted facilities under subparagraphs (6)(A)2.A.–C. shall meet the following effluent limitation:

(I) BOD_5 equal to or less than a monthly average of ten (10) mg/l and a weekly average of fifteen (15) mg/l;

(II) NFRs equal to or less than a monthly average of fifteen (15) mg/l and a weekly average of twenty (20) mg/l;

(III) pH shall be maintained in the range from six to nine (6–9) standard units;

(IV) Discharges shall not contain more than a monthly average of four hundred (400) fecal coliform colonies per one hundred milliliters (100 ml) and a daily maximum of one thousand (1000) fecal coliform colonies per one hundred milliliters (100 ml);

(V) Where chlorine is used as a disinfectant, the effluent shall be dechlorinated except when the discharge is—

(a) Into an unclassified stream at least one (1) mile from a water quality standard classified stream; or

(b) Into a flowing stream where the seven (7)-day Q_{10} flow is equal to or greater than fifty (50) times the effluent flow;

(VI) If the facility is a POTW wastewater treatment facility providing at least primary treatment during a precipitation event and discharges on a noncontinuous basis, the discharge may be allowed subject to the following:

(a) BOD_5 and NFRs equal to or less than a weekly average of forty-five (45) mg/l;

(b) pH shall be maintained in the range from six to nine (6–9) standard units; and

(c) Only the wastewater in excess of the capacity of the noncontinuous wastewater treatment plant hydraulic capacity may be discharged; and

(VII) When the wastewater treatment process causes nitrification which affects the BOD_5 reading, the permittee can petition the department to substitute carbonaceous BOD_5 in lieu of regular BOD testing. If the department concurs that nitrification is occurring, the department will set a carbonaceous BOD_5 at five (5) mg/l less than the regular BOD_5 in the operating permit.

3. Industrial, agricultural and other nondomestic contaminant sources, point sources or wastewater treatment facilities which are not included under subparagraph (6)(A)2.B. shall not be allowed to discharge *[, except the permittee may be permitted to discharge mine dewatering water while mining local mineral deposits. These permits shall be limited as follows:]***.**

[A. There will be no discharge from any waste source except for mine dewatering;]

[B. Discharge of metals or other parameters must conform to the antidegradation section (2) of 10 CSR 20-7.031. Acceptable discharge concentration shall be determined by the Department of Natural Resources after review of background stream concentrations, location of the discharge, dilution ratios at various flows and other factors deemed appropriate by the department. Prior to issuance of the operating permit, the public participation requirement of 10 CSR 20-6.020 shall be fulfilled;]

[C. The permittee shall be responsible for analyzing and reporting existing water quality in affected drainage areas to the satisfaction of the department before an application for a permit will be considered complete. This analysis and report shall include chemical, benthos, sediment and groundwater sampling. This submittal shall also include an analysis of the effect of the increased stream flow, due to mine dewatering, on the stream system and aquatic community. Prior approval shall be obtained from the department on the proposed study plan before beginning the analysis;]

[D. In addition to effluent monitoring, the permittee shall be required to conduct ongoing monitoring to evaluate the effects of the mining operation on the water quality in the receiving stream during the duration of the mining operation; and]

[E.] Agrichemical facilities shall be designed and constructed so that all bulk liquid pesticide nonmobile storage containers and all bulk liquid fertilizer nonmobile storage containers are located within a secondary containment facility. Dry bulk pesticides and dry bulk fertilizers shall be stored in a building so that they are protected from the weather. The floors of the buildings shall be constructed of an approved design and material(s). At an agrichemical facility, all transferring, loading, unloading, mixing and repackaging of bulk agrichemicals shall be conducted in an operational area. All precipitation collected in the operational containment area or secondary containment area as well as process generated wastewater shall be stored and disposed of in a no-discharge manner.

4. Monitoring requirements.

A. The department will develop a wastewater and sludge sampling program based on design flow that will require, at a minimum, one (1) wastewater sample per year for each twenty-five thousand (25,000) gpd of effluent, or fraction thereof, except that—

(I) Point sources that discharge less than five thousand (5,000) gpd may only be required to submit an annual report;

(II) Point sources that discharge more than one point three (1.3) mgd will be required at a minimum to collect fifty-two (52) wastewater samples per year; and

(III) Sludge sampling will be established in the permit.

B. Sampling frequency shall be spread evenly throughout the discharge year. This means that a point source with a continuous discharge shall take samples on a regular schedule, while point sources with seasonal discharges shall collect samples during the season of discharge.

C. Sample types shall be as follows:

(I) Samples collected from lagoons may be grab samples;

(II) Samples collected from mechanical plants shall be twenty-four (24)-hour composite samples, unless otherwise specified in the operating permit; and

(III) Sludge samples shall be a grab sample unless otherwise specified in the operating permit.

D. The monitoring frequency and sample types stated in paragraph (6)(D)3. are minimum requirements. The permit writer shall establish monitoring frequencies and sampling types to fulfill the site-specific informational needs of the department.

(8) Effluent Limitations for All Waters, Except Those in Paragraphs (1)(A)1.–6.

(B) Discharges from wastewater treatment facilities which receive primarily domestic waste or POTWs shall undergo treatment sufficient to conform to the following limitations:

1. BOD_5 and NFRs equal to or less than a monthly average of thirty (30) mg/l and a weekly average of forty-five (45) mg/l;

2. pH shall be maintained in the range from six to nine (6–9) standard units;

3. The limitations of paragraphs (8)(B)1. and 2. will be effective unless a water quality impact study has been conducted by the department, or conducted by the permittee and approved by the department, showing that alternate limitation will not cause violations of the water quality standards or impairment of the uses in the standards. When a water quality impact study has been completed to the satisfaction of the department, the following alternate limitation may be allowed:

A. If the facility is a wastewater lagoon, the NFRs shall be equal to or less than a monthly average of eighty (80) mg/l and a weekly average of one hundred twenty (120) mg/l and the pH shall be maintained above 6.0 and the BOD_5 shall be equal to or less than a monthly average of forty-five (45) mg/l and a weekly average of sixty-five (65) mg/l;

B. If the facility is a trickling filter plant, the BOD_5 and NFRs shall be equal to or less than a monthly average of forty-five (45) mg/l and a weekly average of sixty-five (65) mg/l;

C. Where the use of effluent limitations set forth in section (8) is known or expected to produce an effluent that will endanger water quality, the department will set specific effluent limitations for individual dischargers to protect the water quality of the receiving streams. When a waste load allocation study is conducted for a stream or stream segment, all permits for discharges in the study area shall be modified to reflect the limits established in the waste load allocation study;

D. The department may require more stringent limitations than authorized in subsections (3)(A) and (B) under the following conditions:

(I) If the facility is an existing facility, the department may set the BOD_5 and NFR limits based upon an analysis of the past performance, rounded up to the next five (5) mg/l range; and

(II) If the facility is a new facility, the department may set the BOD_5 and NFR limits based upon the design capabilities of the plant considering geographical and clima*/c/*tic conditions.

(a) A design capability study has been conducted for new lagoon systems. The study reflects that the effluent limitations should be BOD_5 equal to or less than a monthly average of forty-five (45) mg/l, a weekly average of sixty-five (65) mg/l, NFRs equal to or less than a monthly average of seventy (70) mg/l and a weekly average of one hundred ten (110) mg/l.

(b) A design capability study has been conducted for new trickling filter systems and the study reflects that the effluent

limitations should be BOD_5 and NFR equal to or less than a monthly average of forty (40) mg/l and a weekly average of sixty (60) mg/l; and

E. If the facility is a POTW wastewater treatment facility providing at least primary treatment during a precipitation event and discharges on a noncontinuous basis, the discharge may be allowed *[subject to the following:]* **provided that**

[(I) BOD_5 and NFRs equal to or less than a weekly average of forty-five (45) mg/l;]

[(II) pH shall be maintained in the range from six to nine (6–9) units; and]

[(III) Only the wastewater in excess of the capacity of the noncontinuous wastewater treatment plant hydraulic capacity may be discharged] **the NFR (total suspended solids) limit may be higher than forty-five (45) mg/l for combined sewer overflow treatment devices when organic solids are demonstrated to be an insignificant fraction of total inorganic storm water generated solids, and the permittee can demonstrate that achieving a limit of forty-five (45) mg/l is not cost effective relative to water quality benefits. In these cases, an alternative total suspended solids limit would be developed**;

4. Fecal coliform.

A. Discharges to streams identified as whole body contact areas, discharges within two (2) miles upstream of these areas and discharges to streams with a seven (7)-day Q_{10} flow of zero (0) in metropolitan areas where the stream is readily accessible to the public shall not contain more than a monthly average of four hundred (400) fecal coliform colonies per one hundred milliliters (100 ml) and a daily maximum of one thousand (1000) fecal coliform colonies per one hundred milliliters (100 ml) from April 1 to October 31. The department may waive or relax this limitation if the owner or operator of the wastewater treatment facility can demonstrate that neither health nor water quality will be endangered by failure to disinfect.

B. Where chlorine is used as a disinfectant, the effluent shall be dechlorinated except when the discharge is—

(I) Into an unclassified stream at least one (1) mile from a Water Quality Standards classified stream; or

(II) Into a flowing stream where the seven (7)-day Q_{10} flow is equal to or greater than fifty (50) times the design effluent flow;

5. Sludges removed in the treatment process shall not be discharged. Sludges shall be routinely removed from the wastewater treatment facility and disposed of or used in accordance with a sludge management practice approved by the department; and

6. When the wastewater treatment process causes nitrification which affects the BOD_5 reading, the permittee can petition the department to substitute carbonaceous BOD_5 in lieu of regular BOD_5 testing. If the department concurs that nitrification is occurring, the department will set a carbonaceous BOD_5 at five (5) mg/l less than the regular BOD_5 in the operating permit.

(9) General Conditions.

(A) Monitoring, Analysis and Reporting.

1. All construction and operating permit holders shall submit reports at intervals established by the permit or at any other reasonable intervals required by the department. The monitoring and analytical schedule shall be as established by the Missouri Department of Natural Resources in the operating permit.

2. The analytical and sampling methods used must conform to the following reference methods unless alternates are approved by the department:

A. *Standard Methods for the Examination of Waters and Wastewaters*, (14, 15 *[or]*, 16*[th]*, **17, 18, 19 and 20th** Edition), published by the Water *[Pollution Control]* **Environment** Federation, *[3900 Wisconsin Avenue, Washington, D.C. 20016]* **601 Wythe Street, Alexandria, VA 22314**;

B. *[A.S.T.M.]* ***Water Testing*** *Standards, [Part 31 Water and Part 26 Atmospheric Analysis]* **Vol. 11.01 and 11.02**, published by American Society for Testing and Materials, *[Philadelphia]* **West Conshohocken**, PA *[19103]* **19428**;

C. *Methods for Chemical Analysis of Water and Wastes*, (EPA-600/4-79-020), published by the Environmental Protection Agency, Water Quality Office, Analytical Quality Control Laboratory, 1014 Broadway, Cincinnati, OH 54202; and

D. *NPDES Compliance Sampling Inspection Manual*, published by Environmental Protection Agency, Enforcement Division, Office of Water Enforcement, 401 Main Street, S.W., Washington, D.C. 20460.

3. Sampling and analysis by the department to determine violations of this regulation will be conducted in accordance with the methods listed in paragraph (9)(A)2. or any other approved by the department. Violations may be also determined by review of the permittee's self-monitoring reports. Analysis conducted by the permittee or his/her laboratory shall be conducted in such a way that the precision and accuracy of the analyzed results can be determined.

4. If, for any reason, the permittee does not comply with or will be unable to comply with any discharge limitations or standards specified in the permit, the permittee shall provide the department with the following information, with the next discharge monitoring report as required under subsection (9)(A):

A. A description of the discharge and cause of noncompliance;

B. The period of noncompliance, including exact dates and times and/or the anticipated time when the discharge will return to compliance; and

C. Steps being taken to reduce, eliminate and prevent recurrence of the noncompliance.

5. In the case of any discharge subject to any applicable toxic pollutant effluent standard under Section 307(a) of the Federal Clean Water Act, the information required by paragraph (9)(A)4. regarding a violation of this standard shall be provided within twenty-four (24) hours from the time the owner or operator of the water contaminant source, point source or wastewater treatment facility becomes aware of the violation or potential violation. If this information is provided orally, a written submission covering these points shall be provided within five (5) working days of the time the owner or operator of the water contaminant source, point source or wastewater treatment facility becomes aware of the violation.

(G) Industrial, agricultural and other nondomestic water contaminant sources, point sources or wastewater treatment facilities which are not included under subsection (2)(B), (3)(B), (4)(B), or (8)(B)—

1. These facilities shall meet the applicable control technology currently effective as published by the EPA in 40 CFR 405–471 *[as revised on July 1, 1987]*. Where there are no standards available or applicable, the department shall set specific parameter limitations using best professional judgment**. pH shall be maintained in the range from six to nine (6–9) standard units, except that discharges of uncontaminated cooling water and water treatment plant effluent may exceed nine (9) standard units, but may not exceed ten and one-half (10.5) standard units, if it can be demonstrated that the pH will not exceed nine (9) standard units beyond the regulatory mixing zone**; and

2. Agrichemical facilities shall be designed and constructed so that all bulk liquid pesticide nonmobile storage containers and all bulk liquid fertilizer nonmobile storage containers are located within a secondary containment facility. Dry bulk pesticides and dry bulk fertilizers shall be stored in a building so that they are protected from the weather. The floors of the buildings shall be constructed of an approved design and material(s). At an agrichemical facility, the following procedures shall be conducted in an operational area: all transferring, loading, unloading, mixing, and repackaging of bulk agrichemicals. All precipitation collected in

the operational containment area or secondary containment area as well as process generated wastewater shall be stored and disposed of in a no-discharge manner or treated to meet the applicable control technology referenced in paragraph (9)(G)1.

*AUTHORITY: section 644.026, RSMo [Supp. 1998] **Supp. 1999**. Original rule filed June 6, 1974, effective June 16, 1974. For intervening history, please consult the **Code of State Regulations**. Amended: Filed Dec. 30, 1999.*

PUBLIC COST: This proposed amendment is estimated to cost state agencies or political subdivisions less than $500 in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than $500 in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Missouri Clean Water Commission will hold a public hearing on this proposed amendment beginning at 9:00 a.m. March 15, 2000. The public hearing will be held at the Capitol Plaza Hotel, 415 W. McCarty, Jefferson City, Missouri. Those wishing to speak at the public hearing should send a written request to speak to the secretary, Missouri Clean Water Commission, P.O. Box 176, Jefferson City, MO 65102, by 5:00 p.m., March 8, 2000. Written comments will also be accepted until 5:00 p.m., March 29, 2000.

Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 5—Conduct of Gaming

PROPOSED RULE

11 CSR 45-5.010 Presumption of the Right of Patrons to Participate in Gambling Games

PURPOSE: This rule establishes the general right of a patron to participate in gambling games unless such patron engages in unlawful or disruptive conduct.

(1) Unless otherwise authorized by sections 313.800, RSMo et seq., as amended from time-to-time, and 11 CSR 45-1 et seq., as amended from time-to-time (collectively, the "Riverboat Gambling Act and Regulations"), no licensee may deny a patron the right to play a table game that involves playing cards and which is offered to the general public. A patron may be denied such right if the patron engages in unlawful or disruptive conduct. The licensee shall notify a commission agent prior to removing such patron.

AUTHORITY: sections 313.004 and 313.805, RSMo 1994. Original rule filed Dec. 17, 1999.

PUBLIC COST: This proposed rule is expected to cost state and local governments more than $500 in the aggregate. However, because of the speculative nature of the effect that card counters will have on a casino that uses evasive measures, the commission is not able to define an exact or estimated dollar amount. Any person having information that conflicts with the attached fiscal note is encouraged to submit comments to the Missouri Gaming Commission at P.O. Box 1847, Jefferson City, MO 65102.

PRIVATE COST: This proposed rule is expected to cost private entities more than $500 in the aggregate. However, because of the speculative nature of the effect that card counters will have on a casino that uses evasive measures, the commission is not able to define an exact or estimated dollar amount. Any person having information that conflicts with the attached fiscal note is encouraged to submit comments to the Missouri Gaming Commission at P.O. Box 1847, Jefferson City, MO 65102.

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Gaming Commission, P.O. Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the **Missouri Register**. Public hearing is scheduled for 10:00 a.m. on March 3, 2000, in the Missouri Gaming Commission Hearing Room, 3417 Knipp Drive, Jefferson City, Missouri.*

FISCAL NOTE
PUBLIC ENTITY COST

I. RULE NUMBER

Title: 11 - DEPARTMENT OF PUBLIC SAFETY

Division: 45 - Missouri Gaming Commission

Chapter: 5 - Conduct of Gaming

Type of Rulemaking: Proposed Rule

Rule Number and Name: 11 CSR 45-5.010 - Presumption of the Right of Patrons to Participate in Gambling Games

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
State of Missouri, Gaming Proceeds for Education Fund.	Based on CY '98 data, $19,015.50 in AGR tax may be lost from the Gaming Proceeds for Education Fund.
State and Local Governments	Approximately $2,112.83 in AGR tax collections paid to local governments may be lost.

III. WORKSHEET

The formula used is (Amount Wagered[1]) x .001 x (.04, the assumed amount of reduction in house advantage because of card counting) = AGR Reduction.

The AGR reduction is divided by 18% for the state tax and 2% for the local tax.

IV. ASSUMPTIONS

Because of the speculative nature of the effect that card counters will have on a casino that uses evasive measures, the Commission is not able to define an exact or estimated dollar amount. However, assuming that 0.10 % of the total amount wagered is done by card counters and that a skilled card counter gains a 1.5 % advantage over the house and that casino has a 2.5% advantage over the average blackjack player, it would have cost the state approximately $19,015.50 in adjusted gross receipts (AGR) tax and would cost local governments $2,112.83 in

[1] Approximately $2,641,040,880 in calendar year 1998.

AGR tax in calendar year 1998. This further assumes that no casino employed evasive measures against the card counters.

If evasive measures are employed, the calculation becomes even more difficult. In this situation, the state's share of gaming revenue is decreased because the number of hands dealt decreases. There is no way to estimate the cost incurred because of the use of evasive measures.

FISCAL NOTE
PRIVATE ENTITY COST

I. RULE NUMBER

Title: 11 - DEPARTMENT OF PUBLIC SAFETY

Division: 45 - Missouri Gaming Commission

Chapter: 5 - Conduct of Gaming

Type of Rulemaking: Proposed Rule

Rule Number and Name: 11 CSR 45-5.010 - Presumption of the Right of Patrons to Participate in Gambling Games

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
10	Riverboat Gaming Licensees	$105,641.64 in calendar year 1998. The amount will vary depending on the number of counters, the evasive measures used and the number of licensed casinos.

III. WORKSHEET

The formula used is (Amount Wagered[1]) x .001 x (.04, the assumed amount of reduction in house advantage because of card counting) = AGR Reduction.

IV. ASSUMPTIONS

Because of the speculative nature of the effect that card counters will have on a casino that uses evasive measures, the Commission is not able to define an exact or estimated dollar amount. However, assuming that 0.10 % of the total amount wagered is done by card counters and that a skilled card counter gains a 1.5 % advantage over the house and that casino has a 2.5% advantage over the average blackjack player, it would have cost the current licensees approximately $105,641.64 in calendar year 1998.

[1] Approximately $2,641,040,880 in calendar year 1998.

If evasive measures are employed, the calculation becomes even more difficult. In this situation, the state's share of gaming revenue is decreased because the number of hands dealt decreases. There is no way to estimate the cost incurred because of the use of evasive measures.

Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 5—Conduct of Gaming

PROPOSED RULE

11 CSR 45-5.051 Minimum Standards for Twenty-One (Blackjack)

PURPOSE: This rule establishes a set of minimum standards for the game of Twenty-One (Blackjack).

(1) The following words and terms, when used in this rule, shall have the following meanings unless the context clearly indicates otherwise.

(A) "Bart Carter Shuffle" means the shuffling procedure whereby approximately one deck of cards is shuffled after being dealt, segregated into separate stacks and each stack is inserted into premarked locations within the remaining decks contained in the dealing shoe.

(B) "Determinant card" means the first card drawn for each round of play to determine from which side of the two (2)-compartment dealing shoe the cards for that hand shall be dealt.

(C) "Double shoe" means a dealing shoe that has two (2) adjacent compartments in which cards are stacked separately and which permits cards to be dealt from only one (1) compartment at any given time.

(2) A person who, without the assistance of another person or without the use of a physical aid or device of any kind, uses the ability to keep track of the value of cards played in Twenty-One (Blackjack) and uses predictions formed as a result of the tracking information in his/her playing and betting strategy shall not be considered to be cheating.

(3) A Class A licensee may implement any of the following options at a Twenty-One (Blackjack) table provided that the casino licensee complies with the notice requirements contained in 11 CSR 45-5.060:

(A) Persons who have not made a wager on the first round of play may not enter the game on a subsequent round of play until a reshuffle of the cards has occurred;

(B) Persons who have not made a wager on the first round of play may be permitted to enter the game, but may be limited to wagering only the minimum limit posted at the table until a reshuffle of the cards has occurred;

(C) Persons who, after making a wager on a given round of play, decline to wager on any subsequent round of play may be precluded from placing any further wagers until a reshuffle of the cards has occurred;

(D) Persons who, after making a wager on a given round of play, decline to wager on any subsequent round of play may be permitted to place further wagers, but may be limited to wagering only the minimum limit posted at the table until a reshuffle of the cards has occurred; and

(E) Use a double shoe with a determinate card that selects which shoe to deal from during a particular hand.

(4) If a Class A licensee implements any of the options in section (3) of this rule, the option shall be uniformly applied to all persons at the table; provided, however that if a Class A licensee has implemented either of the options in subsection (3)(C) or (D) of this rule, an exception may be made for a patron who temporarily leaves the table if, at the time the patron leaves, the Class A licensee agrees to reserve the patron's spot until his or her return.

(5) Immediately prior to the commencement of play and after any shuffle of the cards, the dealer shall require that the cards be cut in a manner set forth in the Class A licensee's internal controls as approved by the commission. Such internal controls shall be subject to the following conditions:

(A) If the "Bart Carter Shuffle" is utilized and the cards in the discard rack exceed approximately one (1) deck in number, the dealer shall continue dealing the cards until that round of play is completed after which he shall remove the cards from the discard rack and shuffle those cards so that they are randomly intermixed. After the cards taken from the discard rack are shuffled, they shall be split into three (3) separate stacks and each stack shall be inserted into pre-marked locations within the remaining decks contained in the dealing shoe.

(6) After the cards have been cut and before any cards have been dealt, a floor supervisor may require the cards to be recut if he or she determines that the cut was performed improperly or in any way that might affect the integrity or fairness of the game. If a recut is required, the cards shall be recut, at the Class A licensee's option, by the player who last cut the cards, or by the next person entitled to cut the cards, as determined by the Class A licensee's internal controls.

AUTHORITY: sections 313.004 and 313.805, RSMo 1994. Original rule filed Dec. 17, 1999.

PUBLIC COST: This proposed rule is expected to cost state and local governments more than $500 in the aggregate. However, because of the speculative nature of the effect that card counters will have on a casino that uses evasive measures, the commission is not able to define an exact or estimated dollar amount. Any person having information that conflicts with the attached fiscal note is encouraged to submit comments to the Missouri Gaming Commission at P.O. Box 1847, Jefferson City, MO 65102.

PRIVATE COST: This proposed rule is expected to cost private entities more than $500 in the aggregate. However, because of the speculative nature of the effect that card counters will have on a casino that uses evasive measures, the commission is not able to define an exact or estimated dollar amount. Any person having information that conflicts with the attached fiscal note is encouraged to submit comments to the Missouri Gaming Commission at P.O. Box 1847, Jefferson City, MO 65102.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Gaming Commission, P.O. Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. Public hearing is scheduled for 10:00 a.m. on March 3, 2000, in the Missouri Gaming Commission Hearing Room, 3417 Knipp Drive, Jefferson City, Missouri.*

FISCAL NOTE
PUBLIC ENTITY COST

I. RULE NUMBER

Title: 11 - DEPARTMENT OF PUBLIC SAFETY

Division: 45 - Missouri Gaming Commission

Chapter: 5 - Conduct of Gaming

Type of Rulemaking: Proposed Rule

Rule Number and Name: 11 CSR 45-5.051 - Minimum Standards for Twenty-One (Blackjack)

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
State of Missouri, Gaming Proceeds for Education Fund.	Based on CY '98 data, $19,015.50 in AGR tax may be lost from the Gaming Proceeds for Education Fund.
State and Local Governments	Approximately $2,112.83 in AGR tax collections paid to local governments may be lost.

III. WORKSHEET

The formula used is (Amount Wagered[1]) x .001 x (.04, the assumed amount of reduction in house advantage because of card counting) = AGR Reduction.

The AGR reduction is divided by 18% for the state tax and 2% for the local tax.

IV. ASSUMPTIONS

Because of the speculative nature of the effect that card counters will have on a casino that uses evasive measures, the Commission is not able to define an exact or estimated dollar amount. However, assuming that 0.10 % of the total amount wagered is done by card counters and that a skilled card counter gains a 1.5 % advantage over the house and that casino has a 2.5% advantage over the average blackjack player, it would have cost the state approximately $19,015.50 in adjusted gross receipts (AGR) tax and would cost local governments $2,112.83 in AGR tax in calendar year 1998. This further assumes that no casino employed evasive measures against the card counters.

[1] Approximately $2,641,040,880 in calendar year 1998.

If evasive measures are employed, the calculation becomes even more difficult. In this situation, the state's share of gaming revenue is decreased because the number of hands dealt decreases. There is no way to estimate the cost incurred because of the use of evasive measures.

FISCAL NOTE
PRIVATE ENTITY COST

I. RULE NUMBER

Title: 11 - DEPARTMENT OF PUBLIC SAFETY

Division: 45 - Missouri Gaming Commission

Chapter: 5 - Conduct of Gaming

Type of Rulemaking: Proposed Rule

Rule Number and Name: 11 CSR 45-5.051 - Minimum Standards for Twenty-One (Blackjack)

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
10	Riverboat Gaming Licensees	$105,641.64 in calendar year 1998. The amount will vary depending on the number of counters, the evasive measures used and the number of licensed casinos.

III. WORKSHEET

The formula used is (Amount Wagered[1]) x .001 x (.04, the assumed amount of reduction in house advantage because of card counting) = AGR Reduction.

IV. ASSUMPTIONS

Because of the speculative nature of the effect that card counters will have on a casino that uses evasive measures, the Commission is not able to define an exact or estimated dollar amount. However, assuming that 0.10 % of the total amount wagered is done by card counters and that a skilled card counter gains a 1.5 % advantage over the house and that casino has a 2.5% advantage over the average blackjack player, it would have cost the current licensees approximately $105,641.64 in calendar year 1998.

[1] Approximately $2,641,040,880 in calendar year 1998.

If evasive measures are employed, the calculation becomes even more difficult. In this situation, the state's share of gaming revenue is decreased because the number of hands dealt decreases. There is no way to estimate the cost incurred because of the use of evasive measures.

Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 10—Licensee's Responsibilities

PROPOSED RULE

11 CSR 45-10.035 Licensee's Duty to Contact Commission Agent

PURPOSE: This rule ensure that patrons of excursion gambling boats have necessary access to commission agents in order to resolve disputes or report misconduct.

(1) When a patron informs a licensee that they desire to speak to a commission agent, the licensee shall contact the commission agent(s) on duty without delay. The licensee or his/her designee shall remain with the patron until a commission agent arrives. If the licensee is unable to contact a commission agent, the licensee shall prepare a detailed report describing the facts of the incident and the method(s) used to contact the commission agent. The licensee shall file the report with the commission prior to the end of the gaming day upon which the incident occurred.

AUTHORITY: sections 313.004, 313.052, 313.800 and 313.805, RSMo 1994. Original rule filed Dec. 17, 1999.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than $500 in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Gaming Commission, P.O. Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. A public hearing is scheduled for 10:00 a.m. on March 3, 2000, in the Missouri Gaming Commission Hearing Room, 3417 Knipp Drive, Jefferson City, Missouri.*

Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 13—Hearings

PROPOSED RULE

11 CSR 45-13.055 Emergency Order Suspending License Privileges—Expedited Hearing

PURPOSE: This rule establishes a procedure for immediately suspending the privileges under a license where the public health, safety or welfare is endangered and preservation of the public interest requires such suspension of privileges.

(1) Upon a finding that sufficient facts exist to show that a licensee has violated a provision of section 313.004 to 313.090, RSMo, or sections 313.800 to 313.850, RSMo or any rule promulgated by the commission under 11 CSR 30, et seq. or 11 CSR 45, et seq. as may be amended from time-to-time and that such facts constitute an immediate threat to the public health, safety or welfare, the director may issue an emergency order immediately suspending the privileges under the license that allow the licensee to—

(A) Conduct gambling games on an excursion gambling boat; or

(B) Serve as an officer, director, trustee, proprietor, managing agent, or general manager of a licensee or key person of a licensee; or

(C) Work on an excursion gambling boat or have access to restricted areas on an excursion gambling boat; or

(D) Sell gambling supplies; or

(E) Operate a bingo game; or

(F) Sell or manufacture bingo supplies.

The director shall have notice of the emergency order personally served upon the licensee or, if the licensee is not available personally, it may be served by certified mail or overnight express mail, postage prepaid.

(2) Upon receipt of notice of an emergency suspension of license privileges as set forth in section (1) of this rule, the licensee may request an immediate informal hearing before the director. A request for informal hearing must be in writing and delivered to the director at the commission's office in Jefferson City via facsimile, personal delivery or express mail, postage prepaid. The director or his/her designee shall hold the informal hearing within forty-eight (48) hours of receipt of the request for hearing. The procedure for the hearing shall be as follows:

(A) The director or his/her designee shall call the hearing to order and present a statement of facts summarizing the violations of statute and regulation committed by the licensee and the reason(s) why the licensee's conduct constitutes an immediate threat to the public health, safety or welfare such that it demands an emergency order;

(B) The licensee may respond by submitting evidence and/or witnesses supporting its position that the conduct does not constitute a violation of law or that it is not of such severity that it demands emergency action. The director or his/her designee may require that witnesses testify under oath. All relevant evidence is admissible. The director or his/her designee may question witnesses. At the conclusion of the licensee's presentation of evidence, the licensee may make a concluding argument as to why the emergency order should not stand; and

(C) Upon receiving all evidence presented by the licensee and hearing the licensee's final argument, the director or his/her designee shall render a decision as to whether or not the order will stand. If the director reaffirms the order, it shall be scheduled for a hearing before the full commission as provided in section (3) of this rule.

(3) Emergency orders issued pursuant to section (1) of this rule, except those that have been rescinded by the director after an informal hearing provided for in section (2), shall be presented to the commission at its next meeting where a hearing will be conducted to determine the validity of the issuance of the order. The hearing shall be commenced within seven (7) days of the service of notice of the emergency order upon the licensee unless sufficient cause can be shown as to why a hearing cannot be commenced within that time. Under no circumstance shall such hearing be commenced more than fourteen (14) days after service of notice of the emergency order unless a delay is requested by the licensee. The commission shall preside over the hearing which shall be conducted in accordance with the procedures set forth in 11 CSR 45-13.060. The commission may designate a hearing officer to direct the hearing and rule on evidentiary matters. However, the hearing officer's rulings shall be advisory only and may be overruled by the commission. Upon conclusion of oral arguments and evidentiary presentations, the commission shall determine whether sufficient cause exists to uphold the proposed emergency order.

(4) If the commission finds there are facts sufficient to support a finding that the alleged conduct occurred, that it poses an immediate threat to the public health, safety or welfare and that the effective regulation of gaming demands the action, it shall adopt a resolution ratifying the emergency order. The commission may amend the language in the emergency order based upon the evidence presented at the hearing. The commission's resolution shall establish the length

of term for the order by establishing an expiration date. The expiration date may be a specific date, dependent on the completion of specified remedial actions or dependent on the outcome of a proposed disciplinary action issued by the commission pursuant to 11 CSR 45-13.050. If the expiration date is dependent upon specific remedial actions, the commission shall provide a detailed description of the remedies in the resolution and shall establish procedures whereby the licensee can demonstrate that it has complied with the required remedies. Any resolution adopted to ratify the emergency order is a final decision of the commission for purposes of appeal.

(5) If the commission finds that there is insufficient cause to support the order, it shall adopt a resolution rescinding the emergency order and the licensee's privileges shall be reinstated.

(6) Resolutions ratifying or rescinding emergency orders adopted pursuant to the provisions of this rule shall not prohibit the commission from instituting a proposed disciplinary action using the procedures set forth in 11 CSR 45-13.050.

(7) Copies of the final commission order shall be served on the licensee by certified or overnight express mail, postage prepaid; or by personal delivery.

AUTHORITY: sections 313.004, 313.052, 313.560, 313.800 and 313.805, RSMo 1994. Original rule filed Dec. 17, 1999.

PUBLIC COST: This proposed rule will cost state agencies or political subdivisions more than $500 in the aggregate. See attached fiscal note.

PRIVATE COST: This proposed rule will cost private entities more than $500 in the aggregate. See attached fiscal note.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Gaming Commission, P.O. Box 1847, Jefferson City, Missouri 65102. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. A public hearing is scheduled for 10:00 a.m. on March 3, 2000, in the Missouri Gaming Commission Hearing Room, 3417 Knipp Drive, Jefferson City, Missouri.*

FISCAL NOTE
PUBLIC ENTITY COST

I. RULE NUMBER

Title: 11 - DEPARTMENT OF PUBLIC SAFETY

Division: 45 - Missouri Gaming Commission

Chapter: 13 - Hearings

Type of Rulemaking: Proposed Amendment

Rule Number and Name: 11 CSR 45-13.055 - Immediate Revocation or Suspension of License - Expedited Hearing

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Missouri Gaming Commission	Approximately $200 to $400 per hearing for transcripts. Hearing officer and attorney fees will be absorbed with existing employees.

III. WORKSHEET

IV. ASSUMPTIONS

It is estimated that transcripts for hearings will cost between $200 and $400 per hearing.

FISCAL NOTE
PRIVATE ENTITY COST

I. RULE NUMBER

Title: 11 - DEPARTMENT OF PUBLIC SAFETY

Division: 45 - Missouri Gaming Commission

Chapter: 13 - Hearings

Type of Rulemaking: Proposed Amendment

Rule Number and Name: 11 CSR 45-13.055 - Immediate Revocation or Suspension of License - Expedited Hearing

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
Approximately 13,500 licensees	Riverboat gaming, occupational and bingo licensees	Attorney fees of approximately $125.00 to $200.00 per hour

III. WORKSHEET

IV. ASSUMPTIONS

It is impossible to estimate the number of hearings that will occur as a result of the rule. For each hearing, if a licensee chooses to be represented by an attorney, the cost is estimated to be between $125.00 and $200.00 per hour.

Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 50—Missouri State Highway Patrol
Chapter 2—Motor Vehicle Inspection Division

PROPOSED RULE

11 CSR 50-2.400 Emission Test Procedures

PURPOSE: This rule enacts the provisions of section 307.366, RSMo by describing the specifications of the inspection and maintenance program in order to reduce vehicle emissions in the St. Louis ozone nonattainment area.

PUBLISHER'S NOTE: The publication of the full text of the material that the adopting agency has adopted by reference in this rule would be unduly cumbersome or expensive. Therefore, the full text of that material will be made available to any interested person at both the Office of the Secretary of State and the office of the adopting agency, pursuant to section 536.031.4, RSMo. Such material will be provided at the cost established by state law.

(1) Definitions.

(A) Definitions for key words used in this rule may be found in 11 CSR 50-2.010.

(B) Additional definitions specific to this rule are as follows:

1. Contractor—The state contracted company who shall implement and operate the motor vehicle emissions inspection program;

2. Control chart—Statistical method of showing graphically, determining, forecasting, and maintaining performance conditions and parameters in the pursuit of appropriate quality control;

3. DNR—The Department of Natural Resources;

4. Gross vehicle weight rating (GVWR)—The value specified by the manufacturer as the maximum design loaded weight of a single vehicle;

5. Initial inspection—An inspection consisting of the test series that occurs the first time a vehicle is inspected in an inspection cycle. The required test fee is collected upon an initial inspection;

6. Light duty truck (LDT)—Any motor vehicle rated at eight thousand five hundred (8,500) pounds GVWR or less which has a vehicle curb weight of six thousand (6,000) pounds or less and which has a basic vehicle frontal area of forty-five (45) square feet or less, which is: designed primarily for purposes of transportation of property or is a derivation of such a vehicle; or designed primarily for transportation of persons and has a capacity of more than twelve (12) persons; or available with special features enabling off-street or off-highway operation and use;

7. Light duty vehicle (LDV)—A passenger car or passenger car derivative capable of seating twelve (12) passengers or less;

8. Qualifying repair—Any repair or adjustment performed on a vehicle's emission control system after failing an emissions inspection, that is appropriate to the test failure. Qualifying repairs shall include the repair or adjustment of emission control devices such that the requirements of parts (3)(H)1.B.(III)–(3)(H)1.B.(X) of this rule are satisfied;

9. Qualified repair technician—any person who—

A. Is professionally engaged in vehicle repair or employed by an ongoing business whose purpose is vehicle repair; and

B. Has valid certifications in National Institute for Automotive Service Excellence (ASE) Electrical Systems (A6) and Engine Performance (A8);

10. Steady state emission test—an engine exhaust emissions test in which the engine of a vehicle remains at a relatively uniform number of revolutions per minute; and

11. Unsafe condition—the mechanical and physical condition of a motor vehicle which an emissions inspector believes has the potential to cause harm to persons or property during the course of an emissions inspection.

(2) Applicability.

(A) Except as provided in subsection (2)(B) of this rule, subject vehicles include all vehicles operated on public roadways in the geographical area contained in the county of Franklin which are:

1. Registered in the area with the state of Missouri Department of Revenue;

2. Leased, rented, or privately owned and are not registered in the geographical area but are primarily operated in the area;

3. Owned or leased by federal, state, or local government agencies, and are primarily operated in the geographical area, but are not required to be registered by the state of Missouri; or

4. Owned, leased, or operated by civilian and military personnel on federal installations located within the geographical area, regardless of where the vehicles are registered.

(B) The following vehicles are exempt from this rule:

1. Motor vehicles with a manufacturer's GVWR in excess of eight thousand five hundred (8,500) pounds;

2. Motorcycles and motor tricycles;

3. Model-year vehicles prior to 1971;

4. School buses;

5. Diesel-powered vehicles;

6. New motor vehicles not previously titled or registered, prior to the initial motor vehicle registration or the next succeeding registration which is required by law; and

7. Motor vehicles registered in the area covered by this section, but which are based and operated exclusively in an area of this state not subject to the provisions of this section if the owner of the vehicle presents to the director a sworn affidavit that the vehicle will be based and operated outside the covered area.

(3) General Requirements.

(A) Compliance with Emission Standards. Motor vehicles subject to this rule shall demonstrate compliance with emission standards in this rule. Such demonstration shall be made through the inspection procedures and be completed on the schedule specified in this rule. Completion of the scheduled demonstration is necessary for vehicle initial registration, registration renewal, or registration transfer. Failure to complete a scheduled vehicle emission inspection before registration shall be a violation of this rule.

(B) Vehicle Emission Inspection Interval. Vehicles subject to this rule shall have their vehicle emission inspected on an annual basis except for those owners that elect to have their vehicle emission inspected on a biennial basis.

(C) Emission Inspection Period. An emission inspection performed on a subject vehicle is valid, for the purposes of obtaining registration or registration renewal, for a period of sixty (60) days.

(D) Fleets.

1. Fleet test facilities. Vehicle fleets of five hundred (500) vehicles or greater may be officially inspected outside of the centralized emission inspection stations designated for the general public, if the fleet test facilities are approved by the DNR. Vehicle fleets using such fleet testing facilities shall be subject to the same test requirements and quality control standards as nonfleet vehicles. Owners or operators of such vehicle fleets shall use the state contractor to conduct the emission inspection tests. Owners or operators may make repairs to fleet vehicles on-site. Fleet test facilities shall be subject to at least as stringent quality assurance evaluations as public inspection stations.

2. Vehicle fleets less than five hundred (500). Vehicle fleets of ten (10) vehicles or greater shall be given special consideration at public test facilities. The DNR shall require operators of emission inspection test facilities to accommodate fleets with special hours, scheduling appointments during hours not open to the public, and providing a voucher payment system.

(E) Emission Inspection Fee.

1. The vehicle owner or driver shall pay ten dollars and fifty cents ($10.50) to the centralized emission inspection station.

2. This fee shall also include free reinspections, provided the vehicle owner or driver complies with all reinspection requirements

as required in subsection (3)(G) of this rule, and the reinspections are conducted within twenty (20) consecutive days of the initial inspection excluding Saturday, Sunday and holidays.

(F) Vehicle Inspection Process. The emission inspection shall consist of emission tests and functional tests, which shall be subject to the following requirements:

1. Annual inspection process.

A. If a subject vehicle is targeted for a voluntary or mandatory manufacturer's emission recall notice issued after July 1, 1995, the vehicle owner or operator shall present to the emission inspection station proof of compliance with the recall notice.

B. A vehicle shall not be inspected if all or part of the exhaust system is missing, leaking, or if the vehicle is in an unsafe condition. If a motor vehicle is refused for inspection then the inspector shall give the motorist a form that identifies the reasons for inspection refusal. No fee shall be charged for this inspection.

C. The vehicle owner or driver shall have access to an area in the inspection station that permits observation of the entire official inspection procedure of the vehicle tested. This access may be limited, but it shall not prevent observation.

D. Vehicles shall be inspected in as-received condition. An official inspection, once initiated, shall be performed in its entirety regardless of immediate outcome, except in the case of an invalid test condition, or unsafe conditions.

E. The initial inspection shall be performed without repair or adjustment at the emission inspection station prior to commencement of any tests, except as provided for in the evaporative system pressure and purge tests. Emission inspections performed after the initial inspection in an inspection cycle shall be considered a reinspection and are subject to provisions of subsection (3)(G) of this rule.

F. If a subject vehicle passes all emission inspection requirements within a complete inspection cycle, the emission inspection station shall issue the vehicle owner or driver an emission inspection certificate of compliance certifying that the vehicle has passed the emission inspection, and place an emission inspection sticker on the windshield of the subject vehicle. The positioning of the sticker on the windshield of the vehicle shall take place on the premises of the emission inspection station.

G. If a subject vehicle fails any phase of the emission inspection requirements, the emission inspection station shall provide the vehicle owner or driver with an emission inspection test report indicating which part(s) of the emission inspection that the vehicle failed, a list of repair facilities employing at least one (1) qualified repair technician, a repair data sheet, and a copy of the customer complaint procedure.

H. If a subject vehicle fails any part of the emission inspection, the vehicle owner must have the vehicle repaired and complete a repair data sheet before submitting the vehicle for reinspection.

I. If the subject vehicle fails a reinspection, the vehicle owner can apply for a compliance waiver. If all waiver requirements as prescribed in subsection (3)(H) of this rule are met, a waiver shall be issued by the DNR approved inspector at the emission inspection station; and

2. Biennial inspection process.

A. All biennial emission inspections shall be performed in counties that have an emission inspection program pursuant to sections 643.300–643.350, RSMo.

B. The vehicle owners who have chosen a biennial emission inspection shall take their vehicle to an emission inspection station in any county meeting the criteria set in 643.300–643.350, RSMo. The vehicle owner shall be subject to the inspection fee and inspection procedures pursuant to 10 CSR 10-5.380.

(G) Reinspection.

1. Reinspection procedure. All vehicles that require a reinspection are required to receive a visual emission control device inspection. Vehicles that fail any part of the initial inspection or a reinspection shall be reinspected after repairs, to determine if the repairs were effective for correcting failures on the previous inspection. To the extent that repairs done to correct a previous failure could lead to failure of another portion of the inspection, that portion shall also be retested. Evaporative system repairs performed as a result of a vehicle failing either the evaporative system purge or pressure test will be cause for a complete reinspection covering all the initial inspection requirements. The reinspection shall be performed without repair or adjustment at the emission inspection station prior to tests, except as provided for in the evaporative system pressure and purge tests.

2. Repair data sheet. For a reinspection, the vehicle owner or driver shall present the previous emission inspection test results report and the completed repair data sheet to the inspection station. Whether repairs were performed by the owner, a qualified repair technician, or someone other than a qualified repair technician, the repair data sheet must be completed and presented to the DNR approved inspector at the emission inspection station.

3. Reinspection fees. To qualify for free reinspections, the vehicle owner or driver shall present the emission inspection test report and the completed repair data sheet to the emission inspection station within twenty (20) consecutive days, excluding Saturday, Sunday and holidays of the initial emission. Reinspections after the twenty (20)-day period shall only be performed upon payment of the full emission inspection test fee to the emission inspection station.

(H) Issuance of a Waiver.

1. The DNR, assistant station manager, or station manager at the emission inspection station shall issue an emission inspection certificate of compliance, with an indicator to show that the vehicle has received a waiver to the vehicle owner or driver, and an emissions inspection sticker shall be affixed to the subject vehicle provided the following waiver requirements are met:

A. The subject vehicle has failed the initial emission inspection, and has failed a reinspection(s) after all qualifying repairs have been completed. As prescribed in paragraph (3)(G)2. of this rule, a completed repair data sheet for the failed initial inspection and for all failed reinspections in the applicable inspection cycle must also be presented to the DNR approved inspector at the emission inspection station when applying for a waiver;

B. The amount spent on qualifying repairs shall—

(I) Exceed seventy-five dollars ($75) for pre-1981 model year vehicles;

(II) Exceed two hundred dollars ($200) for 1981 and later model year vehicles;

(III) Include parts costs and labor costs paid for qualifying emission repair services performed on the vehicle if paid by the vehicle owner and if the qualifying repairs were performed or supervised by a qualified repair technician as prescribed in part (3)(H)1.C.(IV) of this rule. For qualifying emission repair services performed by someone other than a qualified repair technician, parts costs, but not labor costs, shall be counted toward the minimum cost to qualify for a waiver;

(IV) Be appropriate to the test failure;

(V) Not include expenses which are incurred for the repair of emission control devices which have been found to be tampered with, rendered inoperative, or removed;

(VI) Not include costs for emissions repairs or adjustments covered by an automobile manufacturer's warranty, insurance policy, or contractual maintenance agreement. The emissions repair costs covered by warranty, insurance, or maintenance agreements shall be separated from other emissions repair costs and shall not be applied toward the waiver cost limitations. The operator of a vehicle within the statutory age and mileage coverage under subsection 207(b) of the federal Clean Air Act shall present a written denial of warranty coverage, with a complete explanation, from the manufacturer or authorized dealer in order for this provision to be waived;

(VII) Not include the fee for an emission inspection;

(VIII) Not include charges for obtaining a written estimate of needed repairs;

(IX) Not include charges for checking for the presence of emission control devices; and

(X) Not include costs for repairs performed on the vehicle before the initial inspection failure;

C. The vehicle owner or driver shall present the original of all repair receipts at the inspection station to demonstrate compliance with the qualifying dollar amount. The DNR, assistant station manager, or station manager issuing a waiver shall verify emission-related repairs by visually inspecting the vehicle and reviewing repair receipts. The receipts shall—

(I) Include the name, address, and phone number of the repair facility;

(II) Describe the repairs that were performed;

(III) State the labor costs (where applicable) and parts costs for each repair; and

(IV) Include the name (printed or typed) and signature of the qualified repair technician that performed or supervised the repair work (where applicable); and

D. The vehicle owner or driver shall present a completed, signed waiver affidavit provided by the contractor to DNR, assistant station manager, or station manager at the emission inspection station indicating the costs of repairs and stating that the repairs were made in an attempt to meet the appropriate emission standards. After the effective date of this rule, any revision to the contractor supplied forms will be presented to the regulated community for a forty-five (45)-day comment period.

2. The DNR, assistant station manager, or station manager shall issue an emission inspection certificate of compliance, with an indicator to show that the vehicle has received a waiver to the vehicle owner or driver and an emissions inspection sticker shall be affixed to the subject vehicle provided the vehicle owner or driver presents a completed, signed waiver affidavit to the DNR approved inspector indicating that the vehicle will be operated exclusively in an area outside of the inspection area for a period of at least the next twelve (12) months.

3. The DNR, assistant station manager, or station manager shall issue an emission inspection certificate of compliance with an indicator to show that the vehicle has received a waiver to the vehicle owner or driver and an emissions inspection sticker shall be affixed to the subject vehicle provided the vehicle owner or driver presents proof, acceptable to DNR, assistant station manager, or station manager, that the subject vehicle has successfully passed an emission inspection of another state within the previous twelve (12) months which has been deemed equivalent to Missouri's emission inspection by the DNR.

(I) Vehicle Registration. After a subject vehicle has passed the emission inspection or received a waiver, the emission inspection certificate of compliance issued by the emission inspection station shall be submitted with registration documents by the vehicle owner or representative to the Missouri Department of Revenue at the time of vehicle registration.

(J) Violations and Penalties. Persons violating this rule shall be subject to penalties contained in section 307.366, RSMo.

(4) Emission Standards. Subject vehicles shall fail the steady-state (idle test) if they exceed the following measured emission values:

(A) Idle test standards for light duty vehicles and trucks less than eight thousand five hundred (8,500) pounds GVWR.

Model Year	CO%	HC (PPM)
1971–1974	7.0	700
1975–1979	6.0	600
1980	3.0	300
1981 and newer	1.2	220

(B) Maximum exhaust dilution will be measured as no less than six percent (6%) carbon monoxide (CO) plus carbon dioxide (CO_2) by volume on vehicles subject to a steady-state test as described in July 1998, Title 40 CFR part 51, subchapter S, Appendix B, which is adopted by reference;

(C) Vehicles registered by the Department of Revenue as specially constructed vehicles shall be subject to emission standards applicable to the EPA certified engine configuration with which the vehicle is equipped.

(5) Test Procedures.

(A) Idle Test. Idle tests shall be performed on 1971 and newer model year subject vehicles in accordance with the procedures contained in July 1998, Title 40 CFR part 51, subpart S, Appendix B, paragraph (I), which is adopted by reference, except that the appropriate measured emission values shall be as specified in subsection (4)(A).

(B) Visual Emission Control Device Inspection. Visual emission control device inspections shall be performed on 1971 and newer model year subject vehicles. Vehicles that meet the emission standards, and successfully pass the evaporative system purge and pressure test, if applicable, shall be excluded from meeting the requirements of the visual emission control device inspection as part of an initial inspection only. The visual emission control device inspection procedure shall be as follows:

1. Vehicle emission control device inspections shall be performed through direct observation or through indirect observation using a mirror, video camera or other visual aid. Visual inspection shall include the positive crankcase ventilation valve on all 1971 model year vehicles, the exhaust gas recirculation valve on all 1972 and newer model year vehicles, and the catalyst and fuel inlet restrictor on all 1984 and newer model year vehicles;

2. Vehicles shall fail the visual inspections of emission control devices if such devices are part of the original certified configuration of the vehicle and are found to be missing, modified, disconnected, or improperly connected; and

3. Vehicles shall fail visual inspections of emission control devices if these devices are found to be incorrect for the certified vehicle configuration. Aftermarket parts, as well as original equipment manufacturer parts, may be considered correct if they are proper for the certified vehicle configuration. Where EPA aftermarket approval or a self-certification program exists for a particular class of subject parts, vehicles shall fail visual equipment inspections if the part is not from an original equipment manufacturer or from an approved or self-certified aftermarket manufacturer.

(C) Evaporative System Purge Test. The DNR will approve an Evaporative System Purge Test when a nonintrusive procedure becomes available and is approved by the EPA. All 1981 and newer model year subject vehicles will be tested and required to meet these standards when the procedure is approved.

(D) Evaporative System Pressure Test. Until such time as the DNR approves an Evaporative System Pressure Test that is more comprehensive, nonintrusive, and is approved by the EPA, the evaporative system pressure test procedure shall be as follows:

1. A gas cap test, done to the extent practical, shall be performed on all 1981 and newer model year subject vehicles;

2. The gas cap test sequence shall consist of the following steps:

A. The gas cap will be connected to the adapter of the test equipment;

B. The gas cap shall be pressurized with air to 30 $\pm$ 0.5 inches of water;

C. The gas cap leak rate shall be compared to an orifice with a flow rate of sixty (60) cubic centimeters per minute at thirty inches (30") of water;

3. Vehicles shall fail the gas cap test if the gas cap exceeds a flow rate of sixty (60) cubic centimeters per minute; and

4. A visual inspection of the evaporative emission system shall also be performed, where practical. Vehicles shall fail the visual inspection of the evaporative emission system if the canister is missing or obviously damaged, if the hoses are missing, damaged or obviously disconnected, or if the gas cap is missing.

(E) On-Board Diagnostic (OBD) Test Procedures.

1. All 1996 and later model year vehicles equipped with OBD systems shall have the OBD system information collected, recorded, and read. Reports shall be generated. The information shall be used to determine if any emission control system faults have been identified. Fault codes shall not be a condition for failure.

2. The DNR shall require vehicle failures tied to readings from the OBD system beginning no later than January 1, 2001. Vehicles shall fail the on-board diagnostic test if they fail to meet the requirements of 40 CFR 85.2207, at a minimum.

(6) Emission Test Equipment.

(A) Performance Features of Emission Test Equipment. Computerized test systems are required for performing any measurement on subject vehicles. The test equipment shall be certified to meet EPA requirements, including those contained in July 1998, Title 40 CFR part 51, subpart S, Appendix D, which is adopted by reference. Newly acquired systems shall be subjected to acceptance test procedures to ensure compliance with program specifications.

1. Emission test equipment shall be capable of testing all subject vehicles and will be updated as needed to accommodate new technology vehicles as well as changes to the program.

2. At a minimum, emission test equipment shall be—

A. Automated to the highest degree commercially available to minimize the potential for intentional fraud and/or human error;

B. Secure from tampering and/or abuse;

C. Based upon written specifications; and

D. Capable of simultaneously sampling dual exhaust vehicles.

(B) Functional Characteristics of Computerized Test Systems. The test system is composed of emission measurement devices and other motor vehicle test equipment controlled by a computer.

1. The test system shall automatically—

A. Make pass/fail decisions for all measurements;

B. Record test data to an electronic medium;

C. Conduct regular self-testing of recording accuracy;

D. Perform electrical calibration and system integrity checks before each test, as applicable; and

E. Initiate system lockouts for—

(I) Tampering with security aspects of the test system;

(II) Failing to conduct or pass periodic calibration or leak checks;

(III) Failing to conduct or pass the constant volume sampler flow rate check;

(IV) Failing to conduct or pass the pressure monitoring device check;

(V) Failing to conduct or pass the purge flow metering system check; and

(VI) A full data recording medium or one that does not pass a cyclical redundancy check.

2. Test systems shall include a data link to the DNR computer as specified in the contract between the DNR and the contractor(s).

3. The test system will ensure accurate data collection by limiting, cross-checking, and/or confirming manual data entry.

(C) Steady-State Test Equipment. Steady-state test equipment requirements for model years 1971–1980 shall be as specified in July 1998, Title 40 CFR part 51, subpart S, Appendix D, which is adopted by reference.

(7) Documentation.

(A) The contractor shall provide the owners or drivers of vehicles that pass the emission inspection or are issued a waiver an emission inspection certificate of compliance and emission inspection sticker. After the effective date of this rule, any revision to the contractor supplied forms will be presented to the regulated community for a forty-five (45)-day comment period.

1. The certificate of compliance shall contain—

A. A vehicle description, including license plate number, vehicle title number, vehicle identification number, vehicle make, vehicle model, vehicle model year, and odometer reading;

B. The date and time of inspection;

C. The applicable test standards;

D. The applicable test results, including exhaust quantities, a pass indicator for the evaporative system pressure test(s), a pass indicator for visual inspection of the evaporative system and a pass indicator for the visual emission control device inspection;

E. The results of the recall provisions check, if applicable, including the recall campaign number and the date the recall repairs were completed;

F. A certification that tests were performed in accordance with the regulations;

G. A waiver indicator, if applicable; and

H. The statement: "This inspection is mandated by your United States Congress."

2. The emission inspection sticker shall—

A. Be affixed by the emission inspector to each vehicle which is subject to and passes the emission inspection, or has been issued a waiver on the inside of the vehicle's front windshield in the lower left hand corner. An emission inspection sticker affixed to a vehicle that has been issued a waiver shall have a waiver indicator clearly visible on the sticker. Previous emission inspection stickers affixed to the windshield shall be removed. Destroyed, damaged, or lost stickers can only be replaced after a satisfactory explanation of the details of the incident has been furnished to the DNR. Stickers are valid for one (1) calendar year; and

B. Contain the statement: "This inspection is mandated by your United States Congress."

(B) The contractor shall provide the vehicle owner or driver who fails an inspection with a computer-generated emission inspection test report. Also provided will be a repair facility list, a repair data sheet, and a copy of the consumer complaint procedure. The contractor shall not refer vehicle owners to a particular repair station(s) that may or may not be included on the repair facility list. After the effective date of this rule, any revision to the contractor supplied forms will be presented to the regulated community for a forty-five (45)-day comment period.

1. The emission inspection test report shall include:

A. A vehicle description, including license plate number, vehicle title number, vehicle identification number, vehicle make, vehicle model, vehicle model year, and odometer reading;

B. The date and time of test;

C. The name or identification number of the individual(s) performing the test and the location of the test station and lane number;

D. The type of tests performed, including emission tests, visual checks for the presence of emission control components, and functional evaporative system tests;

E. The applicable test standards;

F. The test results, including exhaust quantities, pass/fail results for the evaporative system pressure test(s), pass/fail results for the visual inspection of the evaporative system and which emission control devices inspected were passed, failed, or not applicable;

G. To the extent possible, a description of the nature of the failure and the components responsible, recommended repair and adjustment procedures, and an estimated cost for those repairs;

H. A statement indicating the availability of warranty coverage as required in section 207 of the Clean Air Act;

I. The results of the recall provisions check, if applicable, including the recall campaign number and date the recall repairs were completed; and

J. A statement that the emission inspection test report is not valid for vehicle registration purposes.

2. The repair facilities list will list facilities employing at least one (1) qualified repair technician in the area which perform emission related repairs on vehicles and information on the results of emission repairs performed by these facilities. This information will include:

A. Statistics on the number of vehicles submitted for a reinspection after repairs by the repair facility;

B. The percentage of vehicles repaired by the repair facility that required more than one (1) reinspection before passing; and

C. The percentage of vehicles repaired by the repair facility that were granted waivers.

3. A repair data sheet must be completed prior to a reinspection. The repair data sheet shall include:

A. Repairs performed;

B. Cost of repairs;

C. Name of the repair technician; and

D. Name, address, and telephone number of the repair facility and the facility's state number.

4. The consumer complaint procedure will include the telephone number of the DNR's quality assurance facility. Any challenge regarding the performance or results of the test must be made in writing within ten (10) business days of the failure of the emission inspection.

(8) Quality Control.

(A) Quality Control Requirements for the Contractor(s).

1. Contractor conduct. The DNR shall appoint only entities under contractual agreement with the DNR to operate official emission inspection stations, which includes conducting emission inspections and issuing certificates of compliance. Conducting the business of the official emission inspection station shall be performed in such a way that it satisfies the intent of the vehicle emission inspection program by effectively identifying vehicles that fail to meet acceptable emission standards. Failure to comply with the provisions of this subsection shall be considered sufficient cause for suspension of emission inspection privileges and authority to issue certificates of compliance. Misconduct of the contractor as established in this rule and in the contract shall be a violation of this rule and may result in dismissal as an emission inspection station operator. The contractor shall pay a monetary penalty to the DNR for a violation of this rule or of the contract by contractor personnel. Violations shall include, but are not limited to, actions which result in improper or fraudulent issuance of a certificate of compliance or a compliance waiver. The penalty shall be determined by a penalty schedule established in the contract.

2. Emission inspectors. All contractor personnel who perform emission inspections at each emission inspection station will be designated by the contractor as an emission inspector. The contractor shall be responsible for the conduct of emission inspectors. The contractor shall maintain for the DNR a registry of designated emission inspectors, that at a minimum includes the inspector's name, Social Security number, beginning date of inspection duties, ending date of inspection duties and description of inspection performance. Designation as an emission inspector may be suspended by a DNR quality assurance officer immediately at any time due to a violation of this rule or a provision of the contract. The contractor shall provide to the DNR an education and training plan, to be approved by the DNR, for designated emission inspectors.

3. Inspection records. All inspection records, calibration records, and control charts shall be accurately created, recorded, and maintained. The contractor, and all employees of the contractor, shall make available all records and information requested by the DNR and shall fully cooperate with DNR personnel, and other authorized state representatives or agents, who conduct audits and other quality assurance procedures. All contractors subject to this rule shall maintain emissions test records, including repair information from any emissions test as well as all test results. These records shall be kept for at least three (3) years after date of an initial emissions inspection. These records shall be made available immediately upon request for review by DNR personnel. These records shall also be made available to the DNR on a continual basis through the use of an automated communication system approved by the DNR.

(B) General Requirements. General requirements for quality control practices for all test equipment shall be as follows:

1. At a minimum, the practices described in this section, in the contract, and in July 1998, Title 40 CFR part 51, subpart S, Appendix A, which is adopted by reference, shall be followed;

2. Preventive maintenance on all inspection equipment shall be performed on a periodic basis, as provided by the contract between the DNR and the contractor(s) and consistent with EPA and the equipment manufacturer's requirements;

3. To assure quality control, computerized analyzers shall automatically record quality control check information, lockouts, attempted tampering and any circumstances which require a service representative to work on the equipment;

4. To assure test accuracy, equipment shall be maintained according to demonstrated good engineering procedures;

5. Computer control of quality assurance checks and quality control charts shall be used whenever possible; and

6. The emission inspection station shall transmit the emission inspection results to the DNR as prescribed in the contract between the DNR and the contractor(s).

(C) Requirements for Steady-State Emissions Testing Equipment. Calibration and maintenance procedures for steady-state emissions testing equipment shall be described in July 1998, Title 40 CFR part 51, subpart S, Appendix A, paragraph (I), which is adopted by reference.

AUTHORITY: section 307.366, RSMo Supp. 1999. Original rule filed Aug. 4, 1983, effective Nov. 11, 1983. Amended: Filed Sept. 12, 1984, effective Jan. 1, 1985. Amended: Filed April 12, 1987, effective June 25, 1987. Rescinded: Filed May 31, 1990, effective Dec. 31, 1990. Emergency rule filed Jan. 3, 2000, effective April 1, 2000, expires Sept. 27, 2000. Readopted: filed Jan. 3, 2000.

PUBLIC COST: This proposed rule is expected to generate about $410,363 in the aggregate.

PRIVATE COST: This proposed rule will cost private entities about $11,526,406 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Public Safety, Missouri State Highway Patrol, P.O. Box 568, Jefferson City, MO 65102-0568. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

FISCAL NOTE
PUBLIC ENTITY COSTS

I. RULE NUMBER

Title: 11 – Department of Public Safety

Division: 50 – Missouri State Highway Patrol

Chapter: 2 – Motor Vehicle Inspection Division

Type of Rulemaking: Proposed Rule

Rule Number and Name: 11 CSR 50-2.400 Emission Test Procedures

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Department of Natural Resources	**$410,363** in increased revenue.

III. WORKSHEET

FISCAL YEAR	# OF INSPECTED VEHICLES	FEE RECEIVED BY THE STATE
2000	16,406	$12,305
2001	67,594	$50,696
2002	69,622	$52,217
2003	71,711	$53,783
2004	73,862	$55,397
2005	76,078	$57,059
2006	78,360	$58,770
2007	79,927	$59,945
2008	13,588	$10,191
TOTAL	**547,148**	**$410,363**

IV. ASSUMPTIONS

1. The state receives $0.75 of the $10.50 per emission inspection in Franklin County.
2. There are approximately 75,000 vehicles in Franklin County.

FISCAL NOTE
PRIVATE ENTITY COST

I. RULE NUMBER

Title: 11 – Department of Public Safety

Division: 50 – Missouri State Highway Patrol

Chapter: 2 – Motor Vehicle Inspection Division

Type of Rulemaking: Proposed Rule

Rule Number and Name: 11 CSR 50-2.400 – Emission Test Procedures

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classifications by types of the business entities which would likely be affected:	Estimate in the aggregate to the cost of compliance the rule by the affected entities:
328	Franklin County Automobile Repair Technicians	**$22,304**
547,148	Franklin County Automobiles Inspected-Fee	**$5,745,058**
54,715	Franklin County Automobiles Repair Cost	**$5,759,044**

III. WORKSHEET

YEAR	# OF REPAIR TECHNICIANS	# OF ASE CERTIFICATIONS	COST OF CERTIFICATION
2000	287	95	$ 6,460
2001	292	148	$10,064
2002	297	41	$ 2,788
2003	302	14	$ 952
2004	307	7	$ 476
2005	313	6	$ 408
2006	318	6	$ 408
2007	324	5	$ 340
2008	329	6	$ 408
TOTAL		308	**$22,304**

FISCAL YEAR	# OF VEHICLES	# OF INSPECTED VEHICLES	FEE
2000	75,000	16,406	$172,266
2001	77,250	67,594	$709,737
2002	79,568	69,622	$731,031
2003	81,955	71,711	$752,966
2004	84,414	73,862	$775,551
2005	86,946	76,078	$798,819
2006	89,554	78,360	$822,780
2007	92,241	79,927	$839,234
2008	95,008	13,588	$142,674
TOTAL		547,148	**$5,745,058**

FISCAL YEAR	# OF INSPECTED VEHICLES	# OF FAILED VEHICLES	AVG. COST TO REPAIR
2000	16,406	1,641	$152,761
2001	67,594	6,759	$648,053
2002	69,622	6,962	$687,567
2003	71,711	7,171	$729,434
2004	73,862	7,386	$773,831
2005	76,078	7,608	$821,055
2006	78,360	7,836	$870,971
2007	79,927	7,993	$915,119
2008	13,588	1,359	$160,253
TOTAL	547,148	54,715	**$5,759,044**

IV. ASSUMPTIONS

1. In 1990 the U.S. census showed 242 automobile repair technicians in Franklin county.

Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 80—*[Division of Water Safety]* ***Missouri State Water Patrol***
Chapter 1—General Organization

PROPOSED AMENDMENT

11 CSR 80-1.010 Organization and Methods of Operation. The department is amending the Purpose and sections (1)–(4).

PURPOSE: This rule is being amended to reflect the change of name to Missouri State Water Patrol and the Missouri State Water Patrol's current mailing address and telephone number, accurately state the Missouri State Water Patrol's position within Missouri state government, eliminate search and seizure exception within jurisdiction stated in 306.165 and 306.167, RSMo, and more accurately reflect services currently provided by Missouri State Water Patrol.

PURPOSE: This rule describes the organization and methods of operation of the [Division of Water Safety] ***Missouri State Water Patrol****.*

(1) In 1959, the 70th General Assembly enacted legislation which created the Missouri Boat Commission to provide boating safety for the state through the registration and inspection of boats, education of the boating public and the enforcement of laws upon the waters of Missouri. The Omnibus State Reorganization Act of 1974 abolished the Missouri Boat Commission and transferred its powers, duties and functions to the Division of Water Safety within the Department of Public Safety. **In 1989, S.B. 135 transferred all powers, duties and functions to the Missouri State Water Patrol by type I transfer within the Department of Public Safety.**

(2) The *[Division of Water Safety]* **Missouri State Water Patrol** is headed by a commissioner appointed by the governor with the advice and consent of the senate. Directly responsible to the director of public safety, the commissioner is charged with the administration and enforcement of Chapter 306, RSMo.

(3) The commissioner of **the** water *[safety]* **patrol**, who holds the rank of colonel, delegates authority, by rank, to patrolmen who are held accountable for carrying out the policies of the commissioner. All patrolmen are granted the powers of a peace officer to enforce all laws of this state *[upon any of its waterways, except for search and seizure]* **within the jurisdictions stated in 306.165 and 306.167, RSMo**. *[Division of Water Safety activities include: patrolling boating waters; maintaining an alert for potential hazards and emergencies; assisting boaters and providing for water safety by inspecting vessels; issuing warnings and citations to law violators and appearing in court to testify in cases of law violations; operating dragging equipment to recover drowning victims; conducting safety education classes in schools and civic groups; providing first-aid in cases of injury; and patrolling flooded areas to protect property and assist victims]* **The Missouri State Water Patrol provides a multitude of services to the public. Among these services are: conducting safety education courses; providing safety exhibits; inspection of safety equipment in boats; investigating boating and water related accidents; investigating criminal activities; patrolling regattas and other organized water related events; administering first aid; authorizing placement of navigational aids and regulatory markers; investigating complaints; providing rescue and recovery assistance; providing a law enforcement presence in flooded areas; and diving for accident and drowning victims, homicide victims and evidence in felony crimes**.

(4) Any person desiring information or assistance on any matter falling within the scope of the *[Division of Water Safety]* **Missouri State Water Patrol** should contact the Commissioner of *[Water Safety]* **the Missouri State Water Patrol**, P.O. Box *[603]* **1368**, Jefferson City, MO 65102-*[0603]* **1368**. Telephone *[(314) 751-3333]* **(573) 751-3333**.

AUTHORITY: sections 306.161, ***RSMo 1994*** *and 536.023(3), RSMo [1986]* ***Supp. 1999****. Original rule filed Dec. 30, 1975, effective Jan. 9, 1976. Amended: Filed Dec. 16, 1999.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to the proposed amendment with Colonel Larry Whitten, Commissioner, Missouri State Water Patrol, P.O. Box 1368, Jefferson City, MO 65102-1368. To be considered, comments must be received within thirty days after publication in the ***Missouri Register****. No public hearing is scheduled.*

Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 80—*[Division of Water Safety]* ***Missouri State Water Patrol***
Chapter 2—Diver's Flag Regulations

PROPOSED AMENDMENT

11 CSR 80-2.010 Diver's Flag. The department is amending the Purpose and sections (4) and (5).

PURPOSE: This rule is being amended to reflect the change of name to Missouri State Water Patrol and the Missouri State Water Patrol's current mailing address and telephone number and clarify that the operator is the violator and not the boat.

PURPOSE: The [Division of Water Safety, Department of Public Safety] ***Missouri State Water Patrol****, shall establish safety standards for divers for the public health and welfare. This rule establishes diver's flag regulations.*

(4) No diving flag shall be placed so as to impede the normal flow of motorboat traffic unless by special permission of the *[Division of Water Safety]* **Missouri State Water Patrol**. Special permission may be obtained by writing to the *[Division of Water Safety]* **Missouri State Water Patrol**, P.O. Box *[603]* **1368**, Jefferson City, MO 65102-*[0603]* **1368**, fifteen (15) days before the water activity.

(5) Any diver not complying with this law or any boat *[operated]* **operator** within fifty (50) yards of the diver flag shall be guilty of a misdemeanor and upon conviction shall be punished by law as provided by section 306.217(4), RSMo 1986.

AUTHORITY: section [306.600(3), RSMo 1986] ***306.217, RSMo 1994****. Original rule filed March 8, 1973, effective March 18, 1973. Amended: Filed Dec. 16, 1999.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to the proposed amendment with Colonel Larry Whitten, Commissioner, Missouri State Water Patrol, P.O. Box 1368, Jefferson City, MO 65102-1368. To be considered, comments must be received within thirty days after publication in the ***Missouri Register****. No public hearing is scheduled.*

Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 80—*[Division of Water Safety] Missouri State Water Patrol*
Chapter 3—Skiing Standards

PROPOSED AMENDMENT

11 CSR 80-3.010 Ski Mirror. The department is amending the Purpose.

PURPOSE: This rule is being amended to reflect the change of name to Missouri State Water Patrol.

*PURPOSE: Under section 306.120, RSMo, the [Department of Public Safety] **Missouri State Water Patrol** shall establish an approved ski mirror for the safety and well-being of the public.*

*AUTHORITY: section 306.120, RSMo [1986] **1994**. Original rule filed July 18, 1975, effective July 28, 1975. Amended: Filed Dec. 16, 1999.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than $500 in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to the proposed amendment with Colonel Larry Whitten, Commissioner, Missouri State Water Patrol, P.O. Box 1368, Jefferson City, MO 65102-1368. To be considered, comments must be received within thirty days after publication in the **Missouri Register**. No public hearing is scheduled.*

Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 80—*[Division of Water Safety] Missouri State Water Patrol*
Chapter 3—Skiing Standards

PROPOSED AMENDMENT

11 CSR 80-3.020 Ski Jump. The department is amending the Purpose and sections (1), (3), (4) and (6).

PURPOSE: This Rule is being amended to reflect the change of name to Missouri State Water Patrol and the Missouri State Water Patrol's current mailing address.

*PURPOSE: Under section 306.124, RSMo, the [Department of Public Safety] **Missouri State Water Patrol** shall establish a ski jump regulation for the purpose of having a uniform method of placing ski jumps to protect the public health and welfare.*

(1) All persons requesting permission to place a ski jump on the waters of Missouri must complete an application form supplied by the *[Division of Water Safety]* **Missouri State Water Patrol**, P.O. Box *[603]* **1368**, Jefferson City, MO 65102-*[0603]* **1368**. All applications must be submitted at least thirty (30) days before the date permission is requested. The application will be reviewed by the *[Division of Water Safety]* **Missouri State Water Patrol** at a public buoy hearing after notice of the hearing has been published in the county paper at least ten (10) days before the hearing. The commissioner of the *[Division of Water Safety]* **Missouri State Water Patrol** or his/her designated representative shall approve or disapprove all applications within five (5) days after the conclusion of the hearing.

(3) Ski jumps to be located in areas near cottages, homes, cabins, resorts, etc. or at or near boat traffic areas will not be permitted until written approval has been obtained from a majority of the adjacent property owners. The hours of the day the ski jump may be used will be determined by the *[Division of Water Safety]* **Missouri State Water Patrol**.

(4) For reasons of safety, the *[Division of Water Safety]* **Missouri State Water Patrol** may require that ski jumps be towed and moored at the water's edge at the end of each jumping session.

(6) When a ski jump event is planned which would involve a number of skiers and an audience is anticipated, whether or not the event is advertised, a regatta, race or other water activity permit must be secured from the *[Division of Water Safety]* **Missouri State Water Patrol**, P.O. Box *[603]* **1368**, Jefferson City, MO 65102-*[0603]* **1368**.

*AUTHORITY: section 306.124, RSMo [1986] **1994**. Original rule filed June 19, 1975, effective June 29, 1975. Amended: Filed Dec. 16, 1999.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than $500 in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to the proposed amendment with Colonel Larry Whitten, Commissioner, Missouri State Water Patrol, P.O. Box 1368, Jefferson City, MO 65102-1368. To be considered, comments must be received within thirty days after publication in the **Missouri Register**. No public hearing is scheduled.*

Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 80—*[Division of Water Safety] Missouri State Water Patrol*
Chapter 4—Identification Numbers for Boats and Vessels

PROPOSED AMENDMENT

11 CSR 80-4.010 Display of Identification Numbers. The department is amending the Purpose.

PURPOSE: This rule is being amended to reflect the change of name to Missouri State Water Patrol.

*PURPOSE: The [Department of Public Safety] **Missouri State Water Patrol** shall establish a uniform manner of displaying identification numbers for motorboats and vessels as prescribed in section 306.030, RSMo.*

*AUTHORITY: section 306.030, RSMo [1986] **Supp. 1999**. Original rule filed May 22, 1975, effective June 1, 1975. Amended: Filed March 25, 1980, effective July 11, 1980. Amended: Filed Dec. 16, 1999.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than $500 in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to the proposed amendment with Colonel Larry Whitten, Commissioner, Missouri State Water Patrol, P.O. Box 1368, Jefferson City, MO 65102-1368. To be considered, comments must be received within thirty days after publication in the **Missouri Register**. No public hearing is scheduled.*

Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 80—*[Division of Water Safety] Missouri State Water Patrol*
Chapter 6—Boating Accident Reports

PROPOSED AMENDMENT

11 CSR 80-6.010 Reporting Requirements. The department is amending sections (1) and (3).

PURPOSE: This rule is being amended to reflect the change of name to Missouri State Water Patrol, the Missouri State Water Patrol's current mailing address, and the increase in the amount of property damage for reporting requirements for boating accidents.

(1) The operator of every vessel involved is required to file in writing whenever a boating accident results in—loss of life; loss of consciousness; medical treatment or disability in excess of twenty-four (24) hours; and property damage in excess of *[one]* **five** hundred dollars *[($100)]* **($500)**.

(3) All reports must be submitted to the *[Division of Water Safety]* **Missouri State Water Patrol**, P.O. Box *[603]* **1368**, Jefferson City, MO 65102-*[0603]* **1368**.

*AUTHORITY: section 306.140(2), RSMo [1986] **1994**. Original rule filed Feb. 10, 1977, effective May 12, 1977. Amended: Filed Dec. 16, 1999.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than $500 in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to the proposed amendment with Colonel Larry Whitten, Commissioner, Missouri State Water Patrol, P.O. Box 1368, Jefferson City, MO 65102-1368. To be considered, comments must be received within thirty days after publication in the **Missouri Register**. No public hearing is scheduled.*

Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 80—*[Division of Water Safety] Missouri State Water Patrol*
Chapter 7—Expiration (Renewal) Stickers for Boats and Vessels

PROPOSED AMENDMENT

11 CSR 80-7.010 Display of Expiration (Renewal) Stickers. The department is amending the Purpose.

PURPOSE: This rule is being amended to reflect the change of name to Missouri State Water Patrol.

*PURPOSE: The [Department of Public Safety] **Missouri State Water Patrol** shall establish a uniform manner of displaying expiration (renewal) stickers for motorboats and vessels as prescribed in section 306.030, RSMo [1986] **Supp. 1999**.*

*AUTHORITY: section 306.030, RSMo [1986] **Supp. 1999**. Original rule filed March 25, 1980, effective July 11, 1980. Amended: Filed Dec. 16, 1999.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than $500 in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to the proposed amendment with Colonel Larry Whitten, Commissioner, Missouri State Water Patrol, P.O. Box 1368, Jefferson City, MO 65102-1368. To be considered, comments must be received within thirty days after publication in the **Missouri Register**. No public hearing is scheduled.*

Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 80—*[Division of Water Safety] Missouri State Water Patrol*
Chapter 8—Water Event Permit

PROPOSED AMENDMENT

11 CSR 80-8.010 Reporting a Cancellation or Change in Permit. The department is amending the Purpose and section (1).

PURPOSE: This rule is being amended to reflect the change of name to Missouri State Water Patrol and identify the correct form for cancellation or change to a regatta permit.

*PURPOSE: This rule will require that the [Division of Water Safety] **Missouri State Water Patrol** be notified in regard to a cancellation or any change in a water event permit.*

(1) A cancellation or any change to a regatta permit as shown on form *[DWS-38]* **SWP-35** shall be reported either in writing or by telephone by the chairman of the event or a designated representative to the office of the *[Division of Water Safety]* **Missouri State Water Patrol** at least five (5) days prior to the date of the event. Failure to do so will be taken into consideration in the decision to approve or disapprove a permit application for a future event.

*AUTHORITY: section 306.130, RSMo [1986] **1994**. Original rule filed Oct. 23, 1981, effective Feb. 11, 1982. Amended: Filed Dec. 16, 1999.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than $500 in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to the proposed amendment with Colonel Larry Whitten, Commissioner, Missouri State Water Patrol, P.O. Box 1368, Jefferson City, MO 65102-1368. To be considered, comments must be received within thirty days after publication in the **Missouri Register**. No public hearing is scheduled.*

Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 103—Sales/Use Tax—Imposition of Tax

PROPOSED RULE

12 CSR 10-103.200 Isolated or Occasional Sale

PURPOSE: Section 144.020.1(1), RSMo, imposes a tax on sellers engaged in the business of selling tangible personal property or rendering taxable service at retail. Section 144.010.1(2), RSMo, excludes certain isolated or occasional sales from tax. This rule explains when a sale is a nontaxable, isolated or occasional sale.

(1) In general, sales of tangible personal property are subject to tax only if the taxpayer is engaged in the business of making such sales. Isolated or occasional sales by a person not engaged in the

business generally are not taxable. There are exceptions to this rule based on the frequency of such sales and total dollars of annual sales.

(2) Definition of Terms.

(A) Business—any activity engaged in by a person, or caused to be engaged in by the person, with the object of direct or indirect gain, benefit, or advantage.

(B) Nonbusiness enterprise—any activity engaged in by a person that is not part of the person's business.

(C) Person—any individual or group acting as a unit.

(3) Basic Application.

(A) Isolated or occasional sales of tangible personal property made by persons not engaged in the business of selling such property are not subject to tax if the gross receipts from all such sales are less than three thousand dollars ($3,000) in a calendar year.

(B) Factors which are considered in deciding if a taxpayer is engaged in business include, but are not limited to, the following criteria:

1. Holding out as being engaged in business by the seller, such as advertising in telephone books, media advertising, solicitation, etc;

2. Frequency and duration of sales; and

3. The nature of the market for the service or property sold or leased.

(C) If annual sales exceed three thousand dollars ($3,000) in a calendar year, such sales will not be considered isolated or occasional, even though the taxpayer is not regularly engaged in the business of selling such products.

(D) Sales made in the partial or complete liquidation of a household, farm, or nonbusiness enterprise are not included in the three thousand dollars ($3,000) threshold. These sales are not taxable.

(4) Examples.

(A) A grocery store sells a used cash register for $1,000. No other non-inventory items are sold during the year. This would qualify as an isolated or occasional sale, and would not be subject to tax.

(B) Same facts as in (A), except that the taxpayer sells used cash registers and fixtures that total $4,000 during the calendar year. The taxpayer replaces these cash registers and fixtures by purchasing new models. The total $4,000 of these sales is subject to tax.

(C) Same facts as in (B), except that the taxpayer does not replace the cash registers or fixtures. This would qualify as a partial liquidation of a nonbusiness enterprise. Therefore, the sales are not subject to tax even though the gross receipts exceed $3,000 in a calendar year.

(D) A barbershop sells tangible personal property (shampoo, combs, etc.) as a regular part of its ongoing business. These sales are subject to sales tax even if the gross receipts are less than $3,000 in a calendar year.

(E) A construction company buys new equipment every few years, and sells its used equipment to other construction businesses. Gross receipts from these sales exceed $3,000 in a calendar year. The construction company is required to collect tax on the sale of the used equipment.

(F) A homeowner holds a weekend garage sale once a year. As long as the property was not created with the intent to sell or purchased for resale, the sale of the merchandise is not subject to tax because the garage sale qualifies as a partial liquidation of a household.

(G) A person regularly attends garage sales. He buys merchandise that he intends to sell at his monthly garage sales. The gross receipts from his garage sales are taxable even if they do not exceed $3,000 because he is in the business of operating garage sales.

AUTHORITY: section 144.270, RSMo 1994. Original rule filed Jan. 3, 2000.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Revenue, Office of Legislation and Regulations, P.O. Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 103—Sales/Use Tax—Imposition of Tax

PROPOSED RULE

12 CSR 10-103.610 Sales of Advertising

PURPOSE: This rule explains, pursuant to section 144.034, RSMo, when sales of advertising are sales of a service, which are not subject to tax, and when such sales of advertising are sales of tangible personal property, which are subject to tax.

(1) In general, if a sale of advertising involves the transfer of tangible personal property, it is a sale of tangible personal property subject to tax unless it is preliminary art or the sale is made by an exempt business. If the sale is made by an exempt business, the transaction is the sale of a service and is not subject to tax when the true object of the sale is the advertising. When the true object of a sale by an exempt business is tangible personal property, it is subject to tax.

(2) Definition of Terms.

(A) Advertising—the expression of an idea created and produced for reproduction and distribution in the media, such as television, radio, newspapers, newsletters, periodicals, trade journals, publications, books, other printed materials, magazines, standardized outdoor billboards, direct mail or point-of-sale (POS) displays, and which is designed to promote sales of a particular product or service or otherwise affect consumer behavior.

(B) Advertising agency—a business, not owned by an advertiser, which is directly responsible to an advertiser for and whose predominant functions as a business are the creation or supervision of the production and placement of advertising and advertising materials in the media.

(C) Broadcast station—a radio or television enterprise which engages in the collection, writing, production and dissemination of news, public affairs or entertainment by means of transmitting signals through space or wires intended for reception by the public on a receiving set.

(D) Exempt business—advertising agency, broadcast station, legal newspaper pursuant to Chapter 493, RSMo, or standardized outdoor billboard company exempt from the sales tax law pursuant to section 144.034, RSMo.

(E) Finished art—the final art used in print advertising for actual reproduction by photochemical or other process, or the master tape or film and duplicate prints used in broadcast advertising.

(F) Preliminary art—art, film or tape prepared by a person engaged in the advertising business for the purpose of conveying or demonstrating an idea or concept for acceptance by a buyer before the final approval is given by a buyer for finished art or finished film or tape. Examples of preliminary art include, but are not

limited to: roughs; visualizations; comprehensives; layouts; sketches; drawings; paintings; designs; story boards; rough cuts of film and tape; initial audio and visual tracks; work prints; and music or sound effects.

(G) Specialty advertising—items of tangible personal property on which advertising is placed but which have a use and value separate from the advertising. Such items include, but are not limited to: tee shirts, key chains, glassware, frisbees, rulers, pens, calendars, matchbooks, calculators, clocks, notebooks and pocket protectors.

(3) Basic Application.

(A) Sales of advertising by exempt businesses are not subject to tax.

(B) Sales of preliminary art by nonexempt businesses are not taxable if separately stated.

(C) Sales of final art by nonexempt businesses are subject to tax.

(D) Required services included as part of the sale price for taxable advertising are also subject to tax.

(E) Optional services included as part of the sale price for taxable advertising are not subject to tax, if the charge for such services is separately stated. If the charge for such services is not separately stated, the entire sale price is subject to tax.

(F) Services provided in connection with the sale of nontaxable advertising are also not subject to tax.

(G) A person selling equipment, materials or supplies to a seller of nontaxable advertising must collect tax from the seller of such advertising.

(H) Sales of tangible personal property that are not advertising but may contain advertising, such as specialty advertising, are subject to tax, even if the sale is made by an exempt business.

(4) Examples.

(A) The following items are generally considered to be tangible personal property, not advertising, although they may have promotional value:

1. Specialty advertising;
2. Business cards;
3. Brochures and books not promoting sales of products or services;
4. Annual reports;
5. Informational pamphlets not promoting sales of products or services;
6. Training materials not promoting sales of products or services;
7. Banners (not POS);
8. Posters (not POS);
9. Signs (not POS);
10. Educational films not promoting sales of products or services;
11. Employee benefits material and plan descriptions not promoting sales of products or services;
12. Business signage, logos and stationery designs;
13. Business directories including yellow pages;
14. Warranty books and product instructions not promoting sales of products or services; and
15. Items mass produced or reproduced in quantities in excess of that reasonably anticipated to be necessary for an advertising campaign and sold for purposes other than promoting sales of a particular product or service.

(B) The following items are generally considered to be advertising:

1. Printed materials promoting sales of products and services, including fliers, handouts, brochures and sales promotion materials;
2. Direct mail and direct marketing materials (not distributed by mail), promoting sales of products and services;
3. POS materials, including displays, banners, posters and table tents and package designs, promoting sales of products and services;
4. Radio commercials, including film and video cassettes and tapes of them;
5. Television commercials, including film and video cassettes and tapes of them;
6. Audio or visual commercials for promotional or merchandising purposes, including audio and visual tapes, cassettes and films of them;
7. Print media advertising, including magazine ads, newspaper ads, periodical ads, trade journal ads, publication ads, book ads, other printed material, ads and newspaper inserts;
8. Billboards, signage, transit advertising (bus, rail, taxi and airport) and shopping mall and sports arena advertising and displays, promoting sales or products or service;
9. Product and service sales materials for dealers, distributors and other sales persons; and
10. Corporate advertising.

(C) The following services are generally considered not to be taxable if the charges for such services are separately stated:

1. Writing original manuscripts and news releases;
2. Composing music;
3. Conducting research and compiling statistical or other information;
4. Providing time and space for advertising;
5. Arranging for the placing of advertising in newspapers, magazines, television, radio, billboards, transportation facilities or other media;
6. Securing the services of actors, directors and artists; and
7. Delivering or causing the delivery of brochures, pamphlets, cards and similar items after passage of title.

AUTHORITY: section 144.270, RSMo 1994. Original rule filed Jan. 3, 2000.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Revenue, Office of Legislation and Regulations, P.O. Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 110—Sales/Use Tax—Exemptions

PROPOSED RULE

12 CSR 10-110.910 Livestock

PURPOSE: Sections 144.030.2(1), 144.030.2(7), 144.030.2(22), 144.030.2(29) and 144.030.2(32), RSMo, exempt from taxation certain livestock, feed and feed additives, medicines and vaccines, and pesticides and herbicides. This rule explains the requirements that must be met to qualify for these exemptions.

(1) In general, the sale of livestock, animals or poultry used for breeding or feeding purposes, feed for livestock or poultry, feed additives, medications or vaccines administered to livestock or poultry in the production of food or fiber, and sales of pesticides

and herbicides used in the production of aquaculture, livestock or poultry are exempt from tax.

(2) Definition of Term.

(A) Aquaculture—The controlled propagation, growth and harvest of aquatic organisms as defined in section 277.024, RSMo.

(B) Commercial breeder—A person, other than a hobby or show breeder, engaged in the business of breeding animals for sale or exchange in return for consideration and who harbors more than three (3) intact females for the primary purpose of breeding animals for sale.

(C) Feed—Food essential for growth, fattening or nourishment of livestock or poultry.

(D) Feed additives—Tangible personal property, including medicine or medical additives added to feed.

(E) Livestock—Cattle, calves, sheep, swine, ratite birds, including but not limited to, ostrich and emu, aquatic products as defined in section 277.024, RSMo, elk documented as obtained from a legal source and not from the wild, goats, horses, other equine, or rabbits raised in confinement for human consumption.

(F) Poultry—Any domesticated bird, such as adult or baby chickens, turkeys, ducks, guinea fowl or geese.

(3) Basic Application of Exemptions.

(A) Pursuant to section 144.030.2(1), RSMo, sales of feed for livestock or poultry are not subject to tax.

(B) Pursuant to section 144.030.2(22), RSMo, sales of feed additives, medications or vaccines administered to livestock or poultry in the production of food or fiber, and sales of pesticides used in the production of livestock or poultry for food or fiber are not subject to tax. Examples include hormones, digestive aids, antibiotics, hog wormers, tonics, medical preparations.

(C) Pursuant to section 144.030.2(7), RSMo, sales of animals used for breeding or feeding purposes are exempt. Unlike the exemptions for feed and feed additives, which are limited to livestock or poultry, this exemption applies to all animals.

(D) Pursuant to section 144.030.2(22), RSMo, sales of bedding used in the production of livestock or poultry for food or fiber are exempt. Examples of bedding may include, but are not limited to, wood shavings, straw and shredded paper.

(E) Pursuant to section 144.030.2(29), RSMo, livestock sales are exempt when the seller is engaged either in the growing, producing or feeding of such livestock, or in the business of buying and selling, bartering or leasing of such livestock.

(F) Pursuant to section 144.030.2(32), RSMo, sales of pesticides or herbicides used in the production of aquaculture, livestock or poultry are exempt.

(G) Pursuant to section 144.030.2(35), RSMo, sales of feed which are developed for and used in the feeding of pets owned by a commercial breeder when such sales are made to a commercial breeder, licensed pursuant to sections 273.325 to 273.357, RSMo are exempt.

(H) Sales of poultry to persons to produce eggs for the sole purpose of the person's consumption are subject to tax.

(I) Sellers of poultry are not subject to tax when—

1. The poultry is sold for breeding purposes; or

2. The poultry is sold to persons who raise the poultry for subsequent sale in dressed or processed form; or

3. The poultry is used to produce eggs to be ultimately sold in processed form or otherwise at retail; or

4. The poultry are purchased for resale.

(J) Sales of animals for the purchaser's personal enjoyment or use only, are subject to tax. Sales of animals for breeding or feeding purposes as part of a business enterprise are not subject to tax.

(4) Examples.

(A) An individual purchases feed, nonprescription vaccines, and bedding for show horses. The purchase of the feed is not subject to tax, however the purchase of the vaccines and the bedding is subject to tax.

(B) A farmer purchases feed, vaccines and bedding for use in his swine operation. The purchases of the feed, vaccines and bedding are exempt.

(C) A rancher breeds and sells horses. The sales of the horses are not subject to tax.

(D) A rabbit farmer raises rabbits, which are sold for processing as food for human consumption. Feed for the rabbits is not subject to tax because rabbits raised in confinement for human consumption are livestock.

(E) A person sells feed to a pet shop which raises and sells rabbits to the general public as pets. The sale of the feed is subject to tax.

(F) A fish farmer purchases fish for use in his aquacultural operation. The purchase of the fish is exempt from tax.

(G) An individual decides to construct and stock a lake on his farm for recreational fishing by his family, neighbors and friends. The purchase of the fish is subject to tax.

(H) A breeder of parakeets purchases feed for breeding stock. The bird feed is subject to tax, because a parakeet breeder does not fit the definition of a commercial breeder.

AUTHORITY: section 144.270, RSMo 1994. Original rule filed Jan. 3, 2000.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to the proposed rule with the Department of Revenue, Office of Legislation and Regulations, P.O. Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 110—Sales/Use Tax—Exemptions

PROPOSED RULE

12 CSR 10-110.920 Sales of Grains, Seed, Pesticides, Herbicides and Fertilizers

PURPOSE: Sections 144.030.2(1), (22), and (32), RSMo, exempt the sales of certain grains, seed, pesticides, limestone, fertilizer and herbicides. This rule explains the requirements that must be met in order to qualify for these exemptions. Section 144.020.1(3), RSMo, taxes certain utility services. This rule explains the application of this taxing provision for sales to agricultural consumers.

(1) In general, the sale of grains to be converted into foodstuffs or seed, and limestone, fertilizer, and herbicides used in connection with the growth or production of crops, livestock or poultry is exempt from tax.

(2) Definition of Terms.

(A) Pesticides—Chemicals used to kill pests, especially insects. Pesticides include adjuvants such as crop oils, surfactants, wetting agents and other pesticide carriers used to improve or enhance the effect of a pesticide and the foam used to mark the application of

pesticides and herbicides for the production of crops, livestock or poultry.

(B) Herbicides—Chemical substances used to destroy or inhibit the growth of plants, especially weeds.

(C) Livestock—See 12 CSR 10-110.900.

(3) Basic Application of Tax.

(A) The sale of grain to be converted into foodstuffs ultimately sold in processed form at retail is exempt.

(B) The sale of seed, lime or fertilizer used in producing crops that will be sold at retail or will be fed to livestock or poultry to be sold ultimately in processed form at retail is exempt.

(C) Sales of pesticides or herbicides used in the production of crops, orchards, aquaculture, livestock or poultry are exempt.

(D) Seed, pesticides and fertilizers sold for nonagricultural use are subject to tax. Sales of fertilizer for lawns, shrubbery and similar ornamental uses and seeds for ornamental purposes are examples of sales subject to tax.

(E) The sale of electricity, water, and gas used for agricultural production is exempt.

(4) Examples.

(A) A pesticide dealer sells pesticides to an orchard to spray on the fruit trees to kill insects. The sale of the pesticide is not subject to tax.

(B) An agricultural chemical dealer sells foam marker to a farmer to aid in determining where herbicides have been sprayed on crops. The sale of the foam marker is not subject to tax.

(C) A seed dealer sells seed, pesticides and fertilizer to a construction company for use on a construction site. These sales are subject to tax.

(D) A pesticide dealer sells fly spray for dairy cattle and rat and mouse poison for use in the dairy barn. The sale of the fly spray is not subject to tax. The sale of the rat and mouse poison is not subject to tax because it is used in the production of an agriculture product.

AUTHORITY: section 144.270, RSMo 1994. Original rule filed Jan. 3, 2000.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to the proposed rule with the Department of Revenue, Office of Legislation and Regulations, P.O. Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 12—DEPARTMENT OF REVENUE
Division 30—State Tax Commission
Chapter 4—Agricultural Land Productive Values

PROPOSED AMENDMENT

12 CSR 30-4.010 Agricultural Land Productive Values. Pursuant to section 137.021 requirements, the State Tax Commission proposes that there is no change in the existing Agricultural Land Grades and Values. The State Tax Commission proposes to implement the same use values which are in effect to date.

PURPOSE: This rule complies with the requirement of section 137.021 to publish a range of productive values for agricultural and horticultural land for the ensuing tax year.

PUBLISHER'S NOTE: The publication of the full text of the material that the adopting agency has incorporated by reference in this rule would be unduly cumbersome or expensive. Therefore, the full text of that material will be made available to any interested person at both the Office of the Secretary of State and the office of the adopting agency, pursuant to section 536.031.4, RSMo. Such material will be provided at the cost established by state law.

(1) Agricultural Land Grades and Values. The following are definitions of agricultural land grades and the productive values of each:

(A) Grade #1. This is prime agricultural land. Condition of soils is highly favorable with no limitations that restrict their use. Soils are deep, nearly level (zero to two percent (0–2%) slope) or gently sloping with low erosion hazard and not subject to damaging overflow. Soils that are consistently wet and poorly drained are not placed in Grade #1. They are easily worked and produce dependable crop yields with ordinary management practices to maintain productivity—both soil fertility and soil structure. They are adapted to a wide variety of crops and suited for intensive cropping. Use value: nine hundred eighty-five dollars ($985);

(B) Grade #2. These soils are less desirable in one (1) or more respects than Grade #1 and require careful soil management, including some conservation practices on upland to prevent deterioration. This grade has a wide range of soils and minimum slopes (mostly zero to five percent (0–5%)) that result in less choice of either crops or management practices. Primarily bottomland and best upland soils. Limitations—

1. Low to moderate susceptibility to erosion;

2. Rare damaging overflows (once in five to ten (5–10) years); and

3. Wetness correctable by drainage. Use value: eight hundred ten dollars ($810);

(C) Grade #3. Soils have more restrictions than Grade #2. They require good management for best results. Conservation practices are generally more difficult to apply and maintain. Primarily good upland and some bottomland with medium productivity. Limitations—

1. Gentle slope (two to seven percent (2–7%));

2. Moderate susceptibility to erosion;

3. Occasional damaging overflow (once in three to five (3–5) years) of Grades #1 and #2 bottomland; and

4. Some bottomland soils have slow permeability, poor drainage, or both. Use value: six hundred fifteen dollars ($615);

(D) Grade #4. Soils have moderate limitations to cropping that generally require good conservation practices. Crop rotation normally includes some small grain (for example, wheat or oats), hay, or both. Soils have moderately rolling slopes and show evidence of serious erosion. Limitations—

1. Moderate slope (four to ten percent (4–10%));

2. Grade #1 bottomland subject to frequent damaging flooding (more often than once in two (2) years), or Grades #2 and #3 bottomland subject to occasional damaging flooding (once every three to five (3–5) years);

3. Poor drainage in some cases; and

4. Shallow soils, possibly with claypan or hardpan. Use value: three hundred eighty-five dollars ($385);

(E) Grade #5. Soils are not suited to continuous cultivation. Crop rotations contain increasing proportions of small grain (for example, wheat or oats), hay, or both. Upland soils have moderate to steep slopes and require conservation practices. Limitations—

1. Moderate to steep slopes (eight to twenty percent (8–20%));

2. Grades #2 and #3 bottomland subject to frequent damaging flooding (more than once in two (2) years) and Grade #4 bottomland subject to occasional damaging flooding; and

3. Serious drainage problems for some soils. Use value: one hundred ninety-five dollars ($195);

(F) Grade #6. Soils are generally unsuited for cultivation and are limited largely to pasture and sparse woodland. Limitations—

1. Moderate to steep slopes (eight to twenty percent (8–20%));

2. Severe erosion hazards present;

3. Grades #3 and #4 bottomland subject to frequent damaging flooding (more than once in two (2) years), and Grade #5 bottomland subject to occasional damaging flooding (once every three to five (3–5) years); and

4. Intensive management required for crops. Use value: one hundred fifty dollars ($150);

(G) Grade #7. These soils are generally unsuited for cultivation and may have other severe limitations for grazing and forestry that cannot be corrected. Limitations—

1. Very steep slopes (over fifteen percent (15%));

2. Severe erosion potential;

3. Grades #5 and #6 bottomland subject to frequent damaging flooding (more than once in two (2) years);

4. Intensive management required to achieve grass or timber productions; and

5. Very shallow topsoil. Use value: seventy-five dollars ($75);

(H) Grade #8. Land capable of only limited production of plant growth. It may be extremely dry, rough, steep, stony, sandy, wet or severely eroded. Includes rivers, running branches, dry creek and swamp areas. The lands do provide areas of benefit for wildlife or recreational purposes. Use value: thirty dollars ($30); and

(I) Definitions. The following are definitions of flooding for purposes of this rule:

1. Damaging flooding. A damaging flood is one that limits or affects crop production in one (1) or more of the following ways:

A. Erosion of the soil;

B. Reduced yields due to plant damage caused by standing or flowing water;

C. Reduced crop selection due to extended delays in planting and harvesting; and

D. Soil damage caused by sand and rock being deposited on the land by flood waters;

2. Frequent damaging flooding. Flooding of bottomlands that is so frequent that normal row cropping is affected (reduces row crop selection); and

3. Occasional damaging flooding. Flooding of bottomland that is so infrequent that producing normal row crops is not compromised in most years.

(2) Forest Land and Horticultural Land. The following prescribes the treatment of forest land and horticultural land:

(A) Forest land, whose cover is predominantly trees and other woody vegetation, should not be assigned to a land classification grade based on its productivity for agricultural crops. Forest land of two (2) or more acres in area, which if cleared and used for agricultural crops, would fall into land grades #1–#5 should be placed in land grade #6; or if land would fall into land grades #6 or #7 should be placed in land grade #7. Forest land may or may not be in use for timber production, wildlife management, hunting, other outdoor recreation or similar uses; and

(B) Land utilized for the production of horticultural crops should be assigned to a land classification grade based on productivity of the land if used for agricultural crops. Horticultural crops include fruits, ornamental trees and shrubs, flowers, vegetables, nuts, Christmas trees and similar crops which are produced in orchards, nurseries, gardens or cleared fields.

*AUTHORITY: section 137.021, RSMo [1994] **Supp. 1999**. Original rule filed Dec. 13, 1983, effective March 12, 1984. For intervening history, please consult the **Code of State Regulations**. Amended: Filed Dec. 28, 1999.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE COST: Because this proposed amendment does not change the use value per acre placed on agricultural land, the assessed value of agricultural property remains the same, therefore there will be no increased cost to private entities as a result of the proposed amendment.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Rosemary Kaiser, Administrative Secretary, State Tax Commission of Missouri, P.O. Box 146, Jefferson City, MO 65102, (573) 751-2414. To be considered, comments must be received within thirty days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

This section will contain the final text of the rules proposed by agencies. The order of rulemaking is required to contain a citation to the legal authority upon which the order or rulemaking is based; reference to the date and page or pages where the notice of proposed rulemaking was published in the *Missouri Register;* an explanation of any change between the text of the rule as contained in the notice of proposed rulemaking and the text of the rule as finally adopted, together with the reason for any such change; and the full text of any section or subsection of the rule as adopted which has been changed from that contained in the notice of proposed rulemaking. The effective date of the rule shall be not less than thirty days after the date of publication of the revision to the *Code of State Regulations*.

The agency is also required to make a brief summary of the general nature and extent of comments submitted in support of or opposition to the proposed rule and a concise summary of the testimony presented at the hearing, if any, held in connection with the rulemaking, together with a concise summary of the agency's findings with respect to the merits of any such testimony or comments which are opposed in whole or in part to the proposed rule. The ninety-day period during which an agency shall file its order of rulemaking for publication in the *Missouri Register* begins either: 1) after the hearing on the proposed rulemaking is held; or 2) at the end of the time for submission of comments to the agency. During this period, the agency shall file with the secretary of state the order of rulemaking, either putting the proposed rule into effect, with or without further changes, or withdrawing the proposed rule.

Title 1—OFFICE OF ADMINISTRATION
Division 10—Commissioner of Administration
Chapter 15—Cafeteria Plan

ORDER OF RULEMAKING

By the authority vested in the commissioner of administration under section 33.103, RSMo (Supp. 1999), the commissioner of administration amends a rule as follows:

1 CSR 10-15.010 Cafeteria Plan **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on October 15, 1999 (24 MoReg 2577–2578). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 7—Wildlife Code: Hunting: Seasons, Methods, Limits

ORDER OF RULEMAKING

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

3 CSR 10-7.440 is amended.

This amendment relates to hunting seasons and limits and is excepted by section 536.021, RSMo from the requirement for filing as a proposed amendment.

The department amended 3 CSR 10-7.440 by establishing an extended period of take with no bag or possession limits for hunting blue, snow and Ross' geese in 2000.

3 CSR 10-7.440 Migratory Game Birds and Waterfowl: Seasons, Limits

PURPOSE: To comply with the Arctic Tundra Habitat Emergency Conservation Act enacted November 24, 1999, the Department of Conservation must amend its rules to authorize the use of extraordinary hunting methods for the take of blue, snow and Ross' geese during an extended period in spring 2000. The well documented, long-term damage to habitat in fragile Arctic and subarctic breeding areas from an overpopulation of these light geese demands that immediate action be taken to alleviate that situation in the most cost-effective way.

(1) Migratory game birds and waterfowl may be taken, possessed, transported and stored as provided in federal regulations. The head or one (1) fully feathered wing must remain attached to all waterfowl while being transported from the field to one's home or a commercial preservation facility. Seasons and limits are as follows:

(G) Geese may be taken from one-half (1/2) hour before sunrise to sunset as follows:

1. The hunting season for blue, snow and Ross' geese is closed statewide beginning February 1, 2000 in order to implement the federal Arctic Tundra Habitat Emergency Conservation Act which became law on November 24, 1999.

A. Persons who possess a valid migratory bird permit may chase, pursue, and take blue, snow and Ross' geese between the hours of one-half (1/2) hour before sunrise to one-half (1/2) hour after sunset from February 1 through April 30, 2000. Any other regulation notwithstanding, methods for the taking of blue, snow and Ross' geese includes using shotguns capable of holding more than three shells, and with the use or aid of recorded or electrically amplified bird calls or sounds, or recorded or electrically amplified imitations of bird calls or sounds. Exceptions to the above permit requirement include landowners or lessees, as described in this code, and persons fifteen (15) years of age or younger, provided s/he is in the immediate presence of a properly licensed adult or has in his/her possession a valid hunter education certificate card. A daily bag limit will not be in effect during February 1–April 30.

PUBLISHER'S NOTE: Paragraphs (1)(G)2.–10. remain as published in the ***Code of State Regulations***.

SUMMARY OF COMMENTS: Seasons and limits are excepted from the requirement for filing as a proposed amendment under section 536.021, RSMo.

This amendment filed December 20, 1999, effective **January 1, 2000**.

Title 8—DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
Division 60—Missouri Commission on Human Rights
Chapter 3—Guidelines and Interpretation of Employment Anti-Discrimination Laws

ORDER OF RULEMAKING

By the authority vested in the Missouri Commission on Human Rights under sections 213.030(6), RSMo Supp. 1999 and

213.075.3, RSMo 1994, the commission withdraws a proposed amendment as follows:

8 CSR 60-3.040 Employment Practices Related to Men and Women **is withdrawn**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on October 15, 1999 (24 MoReg 2588). This proposed amendment is withdrawn.

The Commission is examining the need for a rule change. The Commission plans to hold pre-filing hearings under Section 536.026 at its next regularly scheduled meeting in Jefferson City in the spring of 2000. Notification of date, time and place of the public hearing will be published in the *Missouri Register*. In addition, notification of the public hearing will be sent to each individual or entity that submitted comments on this proposed amendment.

SUMMARY OF COMMENTS: The Missouri Commission on Human Rights received forty-seven (47) comments claiming to support the commission's action to amend the rule. Only seventeen (17) of these comments appeared to have an understanding of what the rule was intended to accomplish which was to adopt the federal standard for supervisor liability which provides for strict liability for supervisory harassment with an affirmative defense in situations in which the harassment did not result in tangible employment action. Thirty (30) of the commenters indicated that they thought the Commission was adopting a rule that would only hold the employer liable for supervisor harassment when "they knew or should have known of the harassment."

The Commission received ten (10) comments from attorneys representing employees in opposition to the proposed amendment. The attorneys object to the removal of the strict liability language of the rule. They maintain that Missouri agency law requires that the employers be strictly liable for the action of supervisors because the supervisors' knowledge is imputed to the employer. There was also a concern raised that the rule as drafted will not accomplish the purpose the Commission intended. In addition, they felt that the current regulation better protects employee rights.

Finally the Commission received (3) comments from which it could not determine whether the person was supporting or opposing the proposed amendment.

The comments received by the Commission indicate a belief that there is no strict liability under Missouri law. In fact, there would still be strict liability when a supervisor sexually harasses a worker and the worker suffers a tangible employment action. When there is no tangible employment action, the employer has an opportunity to present an affirmative defense. Due to the confusion on this issue, it is questionable whether thirty (30) of the comments in support of the rule actually support the action taken by the Commission.

The Commission's proposed amendment did not adopt a knew or should have known standard which many commenters supported. Such a standard would provide less protection from sexual harassment than the federal Civil Rights Act of 1964 Title VII and would therefore be invalid as a matter of federal law.

The rulemaking procedure contemplates withdrawing the rule based upon comments received during the process. A key factor in favor of withdrawing the proposed amendment is the nature of the comments in support of the rule which do not appear to support the action actually taken by the Commission. The Commission is withdrawing the rule and plans to hold a prefiling hearing under Section 536.026, RSMo 1998 before promulgating a new proposed amendment. Both the opponents and proponents will then have input into the process, and the content of the rule will be carefully considered.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 3—Enforcement

ORDER OF RULEMAKING

By the authority vested in the Missouri Clean Water Commission under section 644.026, RSMo Supp. 1999, the commission hereby rescinds a rule as follows:

10 CSR 20-3.010 Penalty Assessment Protocol **is rescinded**.

A notice of proposed rulemaking containing the text of the proposed rescission was published in the *Missouri Register* on May 17, 1999 (24 MoReg 1225). No changes have been made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 3—Enforcement

ORDER OF RULEMAKING

By the authority vested in the Missouri Clean Water Commission under section 644.026, RSMo Supp. 1999, the commission hereby adopts a rule as follows:

10 CSR 20-3.010 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on May 17, 1999 (24 MoReg 1225–1238). Those subsections with changes are reprinted here. This proposed rule becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS:
COMMENT: (1) General Provisions (D)—Enabling the director to withdraw any administrative penalty order at any time and without prejudice may be giving a single individual too much discretionary power and open the process to partiality unless well defined criteria are established in the regulations for withdrawal.
RESPONSE: This provision is consistent with statute 644.079, which provides that the director is the only individual who may issue an order to the violator assessing the penalty and with other discretionary authorities, such as referring the matter to the Attorney General's Office, that are assigned to the director. In practice, many more individuals are involved with the process but, ultimately, the decision necessarily rests with one person. No change was made as a result of this comment. The department may, however, provide point calculations with the administrative penalty order.

COMMENT: (1) General Provisions (E)—We are pleased to see that "the basis of the penalty calculation" which we assume means all point calculations will be included in an order assessing an administrative penalty. We propose that the basis of the penalty calculation also be shared with the alleged violator prior to formal order issuance, i.e. during any negotiation.
RESPONSE: Unlike informal settlement agreements, administrative penalty orders are not subject to negotiation. No change was made as a result of this comment.

COMMENT: (2) Definitions (B) 1.—During the conference, conciliation and persuasion process, we are pleased to see that "negotiation in good faith" is mandated for both the department and the alleged violator. Again we stress that such negotiation should also apply to penalty assessment calculations.
RESPONSE: The department will be professional in applying the rule. Unlike the informal settlement agreement, there are no negotiations for an administrative penalty assessment.

COMMENT: Section (1)(B) and (2)(B)6. appear to be in conflict, because even minor violations by definition have a potential for harm.
RESPONSE AND EXPLANATION OF CHANGE: We agree with this comment. Paragraph (2)(B)6. has been deleted from the rule.

COMMENT: (2) Definitions (B)(9)H.—The significant noncompliance criteria which states that "Violations of narrative requirements in permit which is of substantial concern to the regulatory agency" is unnecessarily vague and open-ended. This statement applies to any general criteria in the Water Quality Standards, any narrative effluent limitation, and any standard or special condition in a permit. For a permittee to be in "significant noncompliance," which has all sorts of stigmas attached to it, the regulatory agency only has to express a "substantial concern" for a particular violation.
RESPONSE: The description of a condition "which is of substantial concern to the regulatory agency" is consistent with the formal EPA definition of significant noncompliance. No change was made as a result of this comment in order to maintain consistency among the state and federal programs.

COMMENT: (2) Definitions (B)(9)I.—The significant noncompliance criteria which states that "Any other violation or group of permit violations which the director considers to be of substantial concern" is also vague, open-ended and even intimidating. The "substantial concern" of one individual may very greatly from the substantial concern of another. The "potential for harm" to the permittee by this definition of significant noncompliance is considerable if it is used to discriminate.
RESPONSE: This definition is consistent with the formal EPA definition of significant noncompliance. No change was made as a result of this comment in order to maintain consistency among the state and federal programs.

COMMENT: Section (3)(A)1.B. "Violations which may or may not pose a potential threat to human health or the environment, but which has an adverse effect upon the purposes of, or procedures for, implementing the Missouri Clean Water Law and associated rules or permit is too vague."
RESPONSE AND EXPLANATION OF CHANGE: This subparagraph has been deleted from the proposed rule.

COMMENT: The current rule for determining penalties for underground storage tank (UST) violations (10 CSR 20-13.080) had an appendix (Appendix A) which specifically lists and assigns a value to identified violations and their potential for harm. At least under the State's UST rule, one knows "up front" what is considered a violation and how much the penalty for the violation could be.
RESPONSE: The universe of facilities subject to requirements of the Missouri Clean Water Law is much broader than UST and also the related issues are more complex. It is not practical to attempt to cover all violations of the Missouri Clean Water Law in a similar table. No change was made as a result of this comment.

COMMENT: (3) Determination of Penalties (A)1.C.—Many tables of criteria and assessed points are presented for various categories in the Gravity-Based Assessment. Some tables and their columns for points assessed list zero points, but most do not. We recommend a zero criteria be listed in all tables under the potential for harm and extent of deviation headings. There are acceptable criteria for each category whereby no points would be assessed, e.g. sludge handling facilities with less than 100 dry tons/year.
RESPONSE: Zero points could be assigned under circumstances where there is no potential for harm. However, for some factors there is no minimum level at which there is no potential for harm. Zero points for all categories would not be appropriate. No change was made as a result of this comment.

COMMENT: (3) Determination of Penalties (A)1.C.—It is stated in the "Receiving Water Characteristics and Sensitivity" category that a discharge to "waters listed as impaired on the current Missouri 303(d) list where the violation involved a contaminant responsible for the water listing," would receive the category's maximum penalty points (25). The Missouri and Mississippi Rivers are both on the 303(d) list for habitat loss. There are many physical, chemical and biological factors that influence habitat for a multitude of life forms. Determining the effect on habitat of a discharge to the Missouri or Mississippi Rivers would be an extremely complex and arduous task.
RESPONSE: The contaminants best associated with habitat loss are sediment or solids. Few, if any, permitted discharges are capable of discharging these contaminants to the extent that the physical substrate of the Missouri or Mississippi Rivers would be altered. No change was made as a result of this comment.

COMMENT: (3) Determination of Penalties (A)1.C.—It is stated in the "Effects of Water contaminant Discharges" that if a "discharge has harmful effect on animal or aquatic life as evidenced by fish kills," a maximum of 30 points would be assessed. This statement in the past has apparently been applied to one minnow or to many game fish. There needs to be delineation for number and type of fish as related to the number of penalty points assessed to be an acceptable measure of the potential for harm.
RESPONSE: The assessment of damages, not penalties, addresses the direct loss of resources value, and this argument could be made in contesting a damages assessment. The penalty assessment, however, takes note of whether fish were killed, not the extent of the kill. No change was made as a result of this comment.

COMMENT: (3) Determination of Penalties (A)2.A. & B.—Under the "extent of deviation" criteria, major and moderate degrees of severity are defined. A "Major" degree of severity results in "substantial noncompliance," whereas a "moderate" degree of severity results in "significant noncompliance" which has its own definition under (2) Definitions (B)9. Substantial and significant are both synonyms for important but in the regulation they have different penalty values without a clear distinction between these degrees of severity. Also confusing is that for a moderate degree of severity, "the violator has deviated slightly." Greater clarity and more explicit definition is needed to prevent misinterpretations.
RESPONSE AND EXPLANATION OF CHANGE: The use of the terms "major" and "moderate" have been deleted from the rule.

COMMENT: (3) Determination of Penalties (A)2.D.—It is indicated in the "Organization Capability and Sophistication" category that a major discharger, simply because they are a major discharger will be assessed 30 penalty points for any violation. No matter how slight the violation, this class distinction increases the chance of the discharge being assigned a moderate degree of severity. The larger the system and more complex the facilities, the

greater is the potential for violation. Assigning penalty points simply because of organizational size is unfair. This category should be deleted in its entirety.
RESPONSE: The intent of this section is that smaller facilities, with less operational control, will not be assessed the same penalties as larger facilities. No changes are proposed.

COMMENT: In the Fiscal Note Private Entity Cost, Section IV Assumptions, Item 4., the statement is made that "Appealed administrative penalty orders are expected to be rare as the agency will be very careful in the selection of those cases suitable for administrative penalty orders." This statement has an ominous tone. One could speculate that those less likely to challenge would be most likely to receive administrative penalty orders.
RESPONSE: Administrative penalty orders, like other formal and informal administrative actions, will be used where they are most effective and efficient rather than across the board. No change was made as a result of this comment.

COMMENT: Section (3)(A)1.C.—The table of receiving water characteristics and sensitivity should include the phrase "and unclassified streams" in addition to "all other waters" under the 0 points assessment.
RESPONSE AND EXPLANATION OF CHANGE: Changes are made to the proposed rule to reflect this comment.

COMMENT: The table of Ag-Chem secondary containment in section (3)(A)1.C. includes only volume criteria for on-site tank capacity, implying concern only with containment of liquid pesticides or fertilizers. It is suggested that some criteria also be included for storage of dry materials.
RESPONSE: Dry materials are normally stored under roof where there is little potential for coming in contact with storm water. There does not appear to be a need to include dry material on the table. No change was made as a result of this comment.

COMMENT: The narrative above the table of sludge handling facilities in section (3)(A)1.C. discusses violations in terms of the amount bypassed per day, while the table itself only discusses dry tons per year. It is suggested that appropriate daily amounts be included in the table for cases of violation due to bypass.
RESPONSE AND EXPLANATION OF CHANGE: The table has been changed to dry pounds per day.

COMMENT: (3)(A)1.C.—There is no indication of how the volumes listed in the table of site specific industrial stormwater are to be determined.
RESPONSE AND EXPLANATION OF CHANGE: Volumes are based on design flow. Language has been added as a result of this comment.

COMMENT: The table of domestic wastewater facilities in section (3)(A)1.C. includes a 10-point assessment if the violation occurs where a "pretreatment program is/should be in effect." In the case of a large metropolitan sewer system, although there is likely a pretreatment program in effect, there are often large areas that are strictly residential in nature and have no industrial or commercial discharges. If bypass occurs from a sewer serving one of these areas, there is no potential for harm from industrial discharges and no additional points should be assessed.
RESPONSE AND EXPLANATION OF CHANGE: The Clean Water Commission agrees that the potential for harm is reduced if the bypass is from an area that is primarily residential. The commission agrees and has placed an asterisk behind the points assessed column for a pretreatment program with the following explanation: * The points assessed may be reduced if the permittee can demonstrate that the portion of sewer system that is bypassing serves primarily residential areas with little or no categorical industries.

COMMENT: CAFOs have been placed in the same category as major discharges. CAFOs are designed, permitted, and operated as no-discharge facilities, and thus, should be categorized separately. It is suggested that CAFOs be categorized under 10 points category which includes "all other facilities."
RESPONSE: Class IA CAFO facilities have a tremendous potential for harm to the environment and must be considered the same as major facilities; therefore, they are not categorized under the 10 points category which includes "all other facilities." No change was made as a result of this comment.

COMMENT: Paragraph (3)(E)2. discusses good faith efforts. Good faith efforts should be recognized as grounds for decreasing penalties. In addition, the history of noncompliance section should be deleted from the proposed regulation. It serves no practical purpose and penalties for violations should be based on actual impact of the violation.
RESPONSE: Good faith efforts are and will be used for decreasing penalties. History of noncompliance is also equally important to adjust penalties upward if appropriate. The matrix delineates reduction for demonstrating good faith effort and increase for lack of demonstrating good faith efforts.

COMMENT: The term "critical aquatic habitat" needs clarification. In the context of the Endangered Species Act (ESA), "critical habitat" is defined. Is the same definition intended for purposes of this proposal? If so, the ramification of a related policy review recently announced by the U.S. Fish and Wildlife Service should be considered. This policy review is intended to address current critical habitat requirements. The public comment period on this proposal ends October 29. Regardless of whether the ESA definition applies, are these areas delineated on a map or otherwise clearly identified?
RESPONSE: The definition of "critical habitat" in this proposed rule is the same as the definition of "critical habitat" in the ESA, and those areas are delineated on a map by the Missouri Department of Conservation. No change was made as a result of this comment.

COMMENT: To develop options for addressing rising WPCP costs, DNR has convened meetings with two stakeholder advisory groups during the past year and begins another round of meetings with an advisory group this week. Is this proposal worth the estimated $1,928,552.40 total aggregate cost for affected public entities, including $1,052,600 for the WPCP?

The estimated total aggregate cost for affected private entities is $7,600,000. This estimate is based on the assumption that the average penalty under the proposed rule will be $2,000, which is the current average penalty. However, the range of penalties proposed suggests that the average may increase. Recalculating actual penalties assessed using the proposed matrices might yield a more accurate estimate.
RESPONSE: The estimated costs over 20 years are based on having current staffing to use administrative penalty orders in place of civil action used currently. Thus costs of using this rule will be offset by savings in our civil actions. This rule provides an additional benefit that will streamline enforcement further. The $2,000 average penalty is based on a penalty obtained through civil action. The program has only issued one administrative penalty during the life of the rule. It is possible that average may vary as the nature of enforcement cases and violation varies. However, $2,000 remains our best estimate for penalties under this rule. No change was made as a result of this comment.

COMMENT: The proposed rule also states in subparagraph (3)(A)2.D. that the extent of deviation will be expressed as a point total and evaluated by adding together the points assessed for specified criteria. Under this calculation method, a point total between

46 and 100 would be deemed to be a moderate extent of deviation. It is conceivable that a violator could accrue a point total between 46–100 without being in "significant noncompliance" as defined in the proposed rule. This creates ambiguity as to whether the extent of deviation of the violation should be deemed as "moderate" in accordance with the gravity-based penalty assessment matrix or "minor" based on subparagraph (3)(A)2.C.
RESPONSE AND EXPLANATION OF CHANGE: The definitions of "major," "moderate" and "minor" have been deleted from the rule.

COMMENT: (3)(A)1.C., Potential for Harm—Sixty (60) points could be assessed against a large municipality; 30 points for sludge handling and 30 points for average daily flow regardless of the extent of violation.
RESPONSE: Under potential for harm, only one category with points assessed are applied. No change was made as a result of this comment.

COMMENT: General Provisions. Paragraph (1)(F) provides that administrative penalties may be assessed against owners and operators. The Missouri Clean Water Law does not authorize penalties against owners or operators but rather only persons.
RESPONSE: The Missouri Clean Water Law, Section 644.079, RSMo, states "the director may issue an order assessing an administrative penalty upon the violator." Further supporting this position is the fact that a violator can be the owner or operator or both. No change was made as a result of this comment.

COMMENT: Definitions—Significant Noncompliance. Paragraph (2)(B)9. defines "significant noncompliance." Included in the definition are unpermitted discharges. There are occasions when a permitted facility has a minor and/or temporary discharge that is not "technically" authorized by the permit. An example could be steam condensate from a steam trap prior to repair of the trap. Therefore, this discharge would be unpermitted. Other times small, de minimis discharges occur which are not permitted. Such could be final cleanup rinse water from a spill of molasses. Both of these "unpermitted discharges" do not warrant including these types of activities under the definition of significant noncompliance. Furthermore, paragraphs 9.H. and I. authorize the MDNR to categorize a violation as significant noncompliance if the MDNR has "substantial concerns." "Substantial concerns" is such a vague and abstract concept that it should not be included in the definition of substantial noncompliance. Without any additional definition of "substantial concern," it should be deleted from the proposed rule.
RESPONSE: The definition of significant noncompliance is the same as the EPA formal definition of the term significant noncompliance. Therefore, it has not been changed in order to maintain consistency among the state and federal programs.

COMMENT: Economic Benefit. Paragraph (3)(D)2. discusses when an economic benefit may be excluded from the administrative penalty. Reasons stated are whether "there are compelling public concerns that the matter would not be served by taking the case to trial" and the likelihood to recovering "economic benefit in litigation." Why trials and litigation are discussed in administrative penalty assessment regulation is uncertain. Administrative penalties are apart and distinct from litigating a civil penalty in circuit court as authorized by Section 644.076.1, RSMo. On the other hand, if a person is assessed an administrative penalty and appeals the penalty, an administrative "trial" will be held. This administrative "trial" will be substantially the same type of "trial" that would be held in circuit court if a lawsuit were filed. So why does the MDNR believe the Clean Water Commission is not as likely to impose a penalty for economic benefit as a Circuit Judge?
RESPONSE AND EXPLANATION OF CHANGE: Subsection (3)(D) has been modified as a result of this comment.

COMMENT: Adjustments. Paragraph (2)(E)2. discusses good faith efforts to comply. This subsection states that "good faith efforts to achieve compliance after agency detection are assumed and are not grounds for decreasing the penalty amount." This provision is not good public policy. Many times, good faith is defined by the speed in which the regulated entity returns to compliance. Oftentimes, the regulated person or company expends tremendous amounts of resources to return to compliance which are above and beyond what is normally expected under the circumstances. With no Good Faith adjustment, a company has no incentive to comply prior to any deadline that has been established by DNR. For these reasons, good faith efforts should be recognized after the MDNR detects the violation.
RESPONSE: The purpose of providing an incentive is to promote a pollution prevention approach in environmental control among regulated entities. If the good faith efforts are not demonstrated to prevent pollution in the first instance, a penalty will not be decreased. A good faith effort to return to compliance after a problem has been discovered by the MDNR, but with no good faith effort to maintain compliance beforehand, simply does not provide justification for reducing the penalty. However, a company which can show not only a good faith effort to comply before the violation, but also a swift response, will be a consideration. No change was made as a result of this comment.

COMMENT: History of Noncompliance. This section should be deleted from the proposed regulation. This section is the functional equivalent of a habitual violator provision. On rare occasions, MDNR inspectors have vendettas against certain companies. They have a tendency to write numerous notices of violation, even for the smallest of digressions. This would encourage those inspectors to write more notices of violation. Furthermore, it would encourage the regulated entities to appeal the notices of violation to the Missouri Clean Water Commission pursuant to Section 640.010.1, RSMo.
RESPONSE: As proposed, the rule provides incentive for good faith efforts; it also provides disincentive for lack of good faith efforts. No change was made as a result of this comment.

COMMENT: Calculation Sheet. The regulation does not include a calculation sheet which includes adjustment factors. Including a sheet would help the regulated community better understand this regulation.
RESPONSE: The matrix delineates reduction for demonstrating good faith effort and increase for lack of demonstrating good faith effort. No change was made as a result of this comment.

10 CSR 20-3.010 Penalty Assessment Protocol

(1) General Provisions.

(B) An administrative penalty shall not be imposed until the department has sought to resolve the violations through conference, conciliation and persuasion and shall not be imposed for minor violations. If the violation is resolved through conference, conciliation and persuasion, no administrative penalty shall be assessed unless the violation has caused, or had the potential to cause, a risk to human health or to the environment, or has caused or has potential to cause pollution, or was knowingly committed, or is not a minor violation.

(2) Definitions.

(B) Additional definitions specific to this rule are as follows:

1. Conference, conciliation and persuasion—A process of verbal or written communications, including but not limited to meetings, reports, correspondence or telephone conferences between authorized representatives of the department and the alleged violator. The process shall, at minimum, consist of one offer to meet with the alleged violator tendered by the department. During any such meeting, the department and the alleged violator shall negotiate in good faith to eliminate the alleged violation and shall attempt to agree upon a plan to achieve compliance;

2. Economic benefit—Any monetary gain which accrues to a violator as a result of noncompliance;

3. Extent of deviation—Deviation from the provisions of sections 644.006–644.141, RSMo or its corresponding regulations, rules, standards, limitations, orders or permits related to the degree to which the violation departs from or prevents the attainment of the intended purpose of the specific statutory or regulatory requirement;

4. Gravity-based assessment—The degree of seriousness of a violation, taking into consideration the risk to human health and the environment posed by the violation and considering the extent of deviation from sections 644.006–644.141, RSMo;

5. Major facility—Means any facility or activity requiring a Missouri State Operating Permit (MSOP) and classified as such by the director in concurrence with the United States Environmental Protection Agency (USEPA);

6. Multi-day violation—A violation which has occurred on or continued for two (2) or more consecutive or non-consecutive days;

7. Multiple violation penalty—The sum of individual administrative penalties assessed where two (2) or more violations are included in the same enforcement action;

8. Significant noncompliance—Violation of one (1) or more provisions of sections 644.006–644.141, RSMo, or corresponding standards, limitations, orders or rules, or a term or condition of any permit which meets one (1) or more of the following criteria:

A. Violation of permit effluent limits which the department must report to the USEPA, or would have to report if the facility was subject to noncompliance reporting requirements;

B. An unauthorized bypass;

C. An unpermitted discharge;

D. A pass through of pollutants which causes or has the potential to cause a violation of Water Quality Standards, 10 CSR 20-7.031;

E. Failure of a municipal wastewater treatment facility to implement its approved pretreatment program, including failure to enforce industrial pretreatment requirements as required in the approved program;

F. Violations of any compliance schedule milestone by ninety (90) days or more from the date specified in an enforcement order or a permit;

G. Failure of the permittee to provide reports within thirty (30) days from the due date specified in an enforcement order or a permit;

H. Violations of narrative requirements in permit which is of substantial concern to the regulatory agency; and

I. Any other violation or group of permit violations which the director considers to be of substantial concern.

(3) Determination of Penalties. The amount of an administrative penalty will involve the application of a gravity-based assessment under subsection (3)(A) and may involve additional factors for multiple violations under subsection (3)(B), multi-day violations under subsection (3)(C) and economic benefit resulting from noncompliance under subsection (3)(D). The resulting administrative penalty may be further adjusted as specified under subsection (3)(E).

(A) Gravity-Based Assessment. The gravity-based assessment is determined by evaluating the potential for harm posed by the violation and the extent to which the violation deviates from the requirements of the Missouri Clean Water Law.

1. Potential for harm. The potential for harm posed by a violation is based on the risk to human health, safety, or the environment or to the purposes of implementing the Missouri Clean Water Law and associated rules or permits.

A. The assessment of the potential for harm resulting from a violation will be based on the risk of adverse effects upon humans or the environment from exposure to water contaminants as a result of a violator's noncompliance. The potential for harm will be expressed as a point total and evaluated by adding together the points assessed for criteria contained in the following categories.

Receiving Water Characteristics and Sensitivity

Points Assessed	Potential for Harm
25	Drinking water lakes (Class L1), and cold water sport fishery streams designated in 10 CSR 20-7.031, groundwaters and losing streams and/or waters listed as impaired on the current Missouri 303(d) list where the violation involved a contaminant responsible for the waters listing
25	Critical aquatic habitats which support populations of plant or animal species designated by the federal government as threatened or endangered; if in a stream, includes the main stem and tributaries for a distance of one (1) mile upstream of the critical habitat area
15	Outstanding national and state resource waters as designated in 10 CSR 20-7.031
10	All other Class L2, L3, P, P1 and C waters and metropolitan no-discharge streams as designated in 10 CSR 20-7.031
0	All other waters and unclassified streams

Facility and Water Contaminant Characteristics

Concentrated Animal Feeding Operation/Animal Feeding Operation (according to size as designated by 10 CSR 20-6.300(1)).

Points Assessed	Potential for Harm
30	Class IA - >20,000 A.U.
25	Class IA - 7,000 to 20,000 A.U.
20	Class IB
15	Class IC
10	Class II
5	Other

AG-Chem Secondary Contaminant

Points Assessed	Potential for Harm
	Product
10	Liquid pesticides or fertilizers
5	Dry pesticides or fertilizers
	Total On-site Tank/Tanks Capacity
10	>40,000 gallons
5	<40,000 gallons
0	No on-site storage

Industrial Facilities and Wastewaters

Current average daily flow if known or can be readily estimated; if not, the design flow or approximation of it. (If the violation was due to a bypass, then the volume bypassed per day or an estimate of that volume.)

Process Wastewater Flows

Points Assessed	Potential for Harm
30	> 1 million gal/day
20	500,000 to <1 million gal/day
15	100,000 to <500,000 gal/day
10	25,000 to <100,000 gal/day
5	< 25,000 gal/day

Sludge Handling Facilities (Domestic and Industrial)

Current average daily sludge production quantity if known or can be readily estimated; if not, the design sludge production or approximation of it. (If the violation was due to a bypass, then the amount bypassed per day or an estimate of that amount.)

Sludge Handling Facilities

Points Assessed	Potential for Harm
30	>50,000 dry lbs/day
20	5,000–50,000 dry lbs/day
15	1,000–5,000 dry lbs/day
10	500–1,000 dry lbs/day
5	<500 dry lbs/day

Storm Water Flows
Land Disturbance

Points Assessed	Potential for Harm
30	>100 acres
20	50 to <100 acres
15	20 to <50 acres
10	5 to <20 acres
5	<5 acres

Site Specific Industrial Storm Water

Points Assessed	Potential for Harm
30	>1 million gal/day
20	500,000 to <1 million gal/day
15	100,000 to <500,000 gal/day
10	25,000 to <100,000 gal/day
5	<25,000 gal/day

General Industrial Storm Water

Points Assessed	Potential for Harm
5	All categories of general

Cooling Water Only Flows

Points Assessed	Potential for Harm
10	>5 million gallons/day
5	<5 million gallons/day

Domestic Wastewater Facilities

Current average daily flow if known or can be estimated; if not, design flow. (If the violation was due to a bypass, then the volume bypassed or an estimate of that volume.)

Points Assessed	Potential for Harm
30	>50 million gal/day
25	1 million to 50 million gal/day
20	500,000 to 1 million gal/day
15	100,000 to 500,000 gal/day
10	25,000 to 100,000 gal/day
5	<25,000 gal/day
10*	Pretreatment program is/should be in effect (in addition to previously listed items)

*The points assessed may be reduced if the permittee can demonstrate that the portion of sewer system that is bypassing serves primarily residential areas with little or no categorical industries.

Effects of Water Contaminant Discharges

Points Assessed	Potential for Harm
30	Discharge has harmful effect on animal or aquatic life as evidenced by fish kills, creates an immediate or persistent threat to public health or results in impairment of any beneficial uses contained in the Water Quality Standards, 10 CSR 20-7.031(1)(C)
30	Discharge causes violation of Cave Resources Act sections 578.200–578.225
20	Discharge causes visible contamination of a surface water or a violation of any general or specific criteria described in 10 CSR 20-7.031
15	Discharge reduces water quality below existing levels but does not prevent maintenance of beneficial uses described in the Water Quality Standards, 10 CSR 20-7.031(1)(C)
10	Discharge causes a public nuisance (for example: taste, odor)
5	Discharge does not comply with the effluent limitations, but produces no readily apparent impact on watercourse
5	A water contaminant was placed, caused or permitted to be placed in a location where it is reasonably certain to cause pollution

2. Extent of deviation. The extent of deviation may range from slight to total disregard of the requirements of the Missouri Clean Water Law and associated rules and/or permits. The assessment will reflect this range and will be evaluated according to the degrees of severity. The extent of deviation will be expressed as a point total and evaluated by adding together the points assessed for criteria contained in the following categories:

Organizational Capability and Sophistication

Points Assessed	Extent of Deviation
30	Major discharger (municipal, industrial, federal) or Class IA Concentrated Animal Feeding Operation
25	Non-major industrial facility with more than 50 corporate employees
20	Non-major federal and state construction grant-state revolving fund funded facility
15	Non-major, nonconstruction-grant or state revolving fund funded facility, Class IB and IC concentrated animal feeding operation, or Missouri Public Service Commission regulated facility
10	All other facilities

Facility Compliance Status

Points Assessed	Extent of Deviation
25	Facility in noncompliance more than 67% of time during a period of at least three (3) consecutive months
15	Noncompliance with one (1) or more requirements followed by periodic returns to compliance
5	Infrequent problem (long periods of compliance; noncompliance less than 20% of time; includes spills and short-term discharge events)

Facility Responsiveness

Points Assessed	Extent of Deviation
30	Demonstrated recalcitrance by owner or operator, or failure to comply until a lawsuit was filed
20	Lack of attention and concern until formal administrative enforcement action has been initiated or referral to the U. S. Attorney, U.S. Department of Justice, Office of the Attorney General or the county prosecutor for civil or criminal actions
10	Violations continued after responsible party had been clearly informed on at least three (3) separate occasions of the noncompliance and the need to correct it
0	Other

Regulatory Compliance Characteristics

Points Assessed	Extent of Deviation
25	Failure to meet schedule of compliance or attain final limits contained in an abatement order, court order, consent decree or settlement agreement.
20	Discharge without an MSOP permit or operation without required permit for Class I CAFOs.
15	Discharge fails whole effluent toxicity testing (WET) requirement specified in the operating permit.
15	Significant noncompliance with effluent limits.
10	Failure to meet schedule of compliance or special conditions in an MSOP permit.
10	Violations of effluent limits that do not meet the definition of significant noncompliance.
10	Failure to submit Discharge Monitoring Reports (DMRs) or other reports required by the operating permit or letter of approval.
10	Failure to employ or retain a certified operator if required to do so.
10	Discharge without a required Storm Water Permit.
10	Failure to install and maintain erosion control measures.
5	Failure to develop and implement a required Storm Water Pollution Prevention Plan.
5	Construction without a construction permit or letter of approval for construction, or failure to construct in accordance to plans and specifications.
5	Failure to comply with subdivision regulations.
5	Failure to comply with MSOP standard conditions not previously specified, including failure to provide proper operation and maintenance and perform in-plant testing.
5	Failure to meet regulatory compliance date.

3. Gravity-based penalty assessment matrix. The matrix that follows will be used to determine the gravity-based assessment portion of the administrative penalty. Potential for harm and extent of deviation form the axes of the matrix. The penalty range selected may be adopted to the circumstances of a particular violation.

Potential for Harm	Extent of Deviation
Major–51 or more points	101 or more points
Moderate–26 to 50 points	46 to 100 points
Minor–0 to 25 points	0 to 45 points

4. Base penalty determination. The final penalty calculated shall not exceed the amounts established in section 644.076, RSMo.

A. The penalty assessment will be determined by selecting the appropriate cell from the gravity-based assessment matrix. Potential for harm and extent of deviation form the two (2) axes of the matrix. The matrix is composed of nine (9) cells, each of which contains a monetary penalty range and a midpoint.

Extent of Deviation

Potential for Harm	Gravity	Major	Moderate	Minor
	Major (Range) (Midpoint)	$8,501–$10,000 $9,250.50	$7,501–$8,500 $8,000.50	$6,501–$7,500 $7,000.50
	Moderate (Range) (Midpoint)	$5,501–$6,500 $6,000.50	$4,501–$5,500 $5,000.50	$3,501–$4,500 $4,000.50
	Minor (Range) (Midpoint)	$2,501–$3,500 $3,000.50	$1,501–$2,500 $2,000.50	$0–$1,500 $750

B. The matrix cell appropriate for a specific penalty assessment will be determined by identifying the appropriate category (for example, major, moderate, minor) for both the potential for harm and the extent of deviation. This results in the penalty being set at the midpoint of the range in the selected matrix cell.

(D) Economic Benefit. Any economic benefits, including delayed and avoided costs that have accrued to the violator as a result of noncompliance, will be added to the penalty amount. Determination will be made by the department using an economic benefit formula that provides a reasonable estimate of the economic benefit of noncompliance. Economic benefit may be excluded from the administrative penalty if any one (1) of the following occur:

1. The economic benefit is an insignificant amount;

2. There are compelling public concerns that would not be served by taking a case through administrative appeal or circuit court litigation; or

3. It is unlikely that the department would be able to recover the economic benefit in litigation based on the particular case.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 4—Grants

ORDER OF RULEMAKING

By the authority vested in the Missouri Clean Water Commission under section 644.026, RSMo Supp. 1999, the commission hereby amends a rule as follows:

10 CSR 20-4.023 State Forty Percent Construction Grant Program **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 2, 1999 (24 MoReg 1849). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS:
COMMENT: The regulations should provide for advanced treatment eligibility.
RESPONSE: The construction of advanced wastewater treatment facilities or the modification of existing facilities to meet these standards is currently eligible. No change was made as a result of this comment.

COMMENT: The regulations should designate a portion of the funding for treatment facilities.
RESPONSE: While in many cases the water pollution abatement effort can best be addressed through new or upgraded treatment facilities, this is not always the case. Many times new collection or transportation systems are necessary to remedy the situation. The needs one year may not reflect those of another. The preponderance of our grant, and certainly our loan funds, will be and are used for treatment facilities. We would envision that earmarking funds for certain priorities as limiting and detrimental to the overall water pollution control effort. No change was made as a result of this comment.

COMMENT: The regulations should provide for a Hardship determination thereby providing qualifying communities additional assistance.
RESPONSE: The proposed regulations modify our existing federally funded Hardship program to be funded by state funds when available. In addition, low interest or zero interest loans may be available for qualifying communities. No change was made as a result of this comment.

COMMENT: The regulations should provide for an advanced treatment set aside.
RESPONSE: We believe that the current priority system adequately addresses the advanced treatment needs. Earmarking of funds would not provide the flexibility we have in our current system and would likely slow down these projects. Staff have reviewed the priority point formula and note that there are four and maybe five opportunities for communities needing advanced treatment to receive higher priority point assignments. Staff are developing a new priority point formula based on a watershed format. We are taking measures to ensure that these needs are addressed accordingly therein as well. No change was made as a result of this comment.

COMMENT: There should be recognition of past financial efforts allowing them to be qualified as local match.
RESPONSE: Our current programs allow for the cost of engineering services and construction as part of the approved project. The grant amount is limited to forty percent of these eligible costs, regardless of when incurred, as long as prior department approvals were obtained. No change was made as a result of this comment.

COMMENT: The regulation should be modified to allow communities to access grant funding initially as opposed to the current approach of accessing the grant program if they do not qualify for loans.
RESPONSE: There is a critical shortage of grant funds to satisfy the needs of communities across the state. The current system is designed to maximize the assistance we provide to Missouri communities and maximize environmental benefits. Accessing grant funds first would only accelerate their depletion to the exclusion of other needy applicants. No change was made as a result of this comment.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 4—Grants

ORDER OF RULEMAKING

By the authority vested in the Missouri Clean Water Commission under section 640.600, RSMo 1994, the commission hereby amends a rule as follows:

10 CSR 20-4.030 Grants for Sewer Districts and Certain Small Municipal Sewer Systems **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 2, 1999 (24 MoReg 1849–1850). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS:
COMMENT: The proposed amendments to 10 CSR 20-4.030, 4.041, and 4.043, are discriminatory, unfair, unnecessary and contrary to the interests of the consumers and citizens of the State of Missouri because it extends a distinction between political subdivisions of the state and all other businesses entitled to provide water-related functions because the regulations will require the repayment of grant funds if the facilities funded under a grant are sold to other than a political subdivision.
RESPONSE: Grant and loan funds are public funds provided through the state's constitution and repaid through tax revenues. They have been provided to recipient communities and public sewer districts to assist them in the financing of public wastewater facilities. These public funds, and the facilities constructed, are held in the public trust for the state. Financial returns attributable to the grant or loan should remain in the public trust. It should be noted that the constitution establishes that only public entities are eligible recipients of these grant and loan funds. No change was made as a result of this comment.

COMMENT: The state is creating barriers to privatization and preference for public ownership. There should be a level playing field for public utilities and private utilities.
RESPONSE: Constitutional language establishes that only public entities are eligible for assistance. No change was made as a result of this comment.

COMMENT: The distinction between public and private utilities funding is offered at the same time the SRF monies are becoming available to both public and private entities.
RESPONSE: Clean Water SRF funds are not available to private entities. This distinction is established in the federal Clean Water Act as opposed to the Drinking Water SRF which is available to private systems per the federal Safe Drinking Water Act. No change was made as a result of this comment.

COMMENT: The regulations should provide for advanced treatment eligibility.
RESPONSE: The construction of advanced wastewater treatment facilities or the modification of existing facilities to meet these standards is currently eligible. No change was made as a result of this comment.

COMMENT: The regulations should designate a portion of the funding for treatment facilities.
RESPONSE: While in many cases the water pollution abatement effort can best be addressed through new or upgraded treatment facilities, this is not always the case. Many times new collection or transportation systems are necessary to remedy the situation. The needs one year may not reflect those of another. The preponderance of our grant, and certainly our loan funds, will be and are used for treatment facilities. We would envision that earmarking funds for certain priorities as limiting and detrimental to the overall water pollution control effort. No change was made as a result of this comment.

COMMENT: The regulations should provide for a Hardship determination thereby providing qualifying communities additional assistance.
RESPONSE: The proposed regulations modify our existing federally funded Hardship program to be funded by state funds when available. In addition, low interest or zero interest loans may be

available for qualifying communities. No change was made as a result of this comment.

COMMENT: The regulations should provide for an advanced treatment set aside.
RESPONSE: We believe that the current priority system adequately addresses the advanced treatment needs. Earmarking of funds would not provide the flexibility we have in our current system and would likely slow down these very important projects. Staff have reviewed the priority point formula and note that there are four and maybe five opportunities for communities needing advanced treatment to receive higher priority point assignments. Staff are developing a new priority point formula based on a watershed format. We are taking adequate measures to ensure that these needs are addressed accordingly therein as well. No change was made as a result of this comment.

COMMENT: There should be recognition of past financial efforts allowing them to be qualified as local match.
RESPONSE: Our current programs allow for the cost of engineering services and construction as part of the approved project. The grant amount is limited to forty percent of these eligible costs, regardless of when incurred, as long as prior department approvals were obtained. No change was made as a result of this comment.

COMMENT: The regulation should be modified to allow communities to access grant funding initially as opposed to the current approach of accessing the grant program if they do not qualify for loans.
RESPONSE: There is a critical shortage of grant funds to satisfy the needs of communities across the state. The current system is designed to promote equity between communities and put them on a level playing field. Accessing grant funds first would only accelerate their depletion to the exclusion of other needy applicants. No change was made as a result of this comment.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 4—Grants

ORDER OF RULEMAKING

By the authority vested in the Missouri Clean Water Commission under sections 644.026 and 644.122, RSMo Supp. 1999, the commission hereby amends a rule as follows:

10 CSR 20-4.041 Direct Loan Program **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 2, 1999 (24 MoReg 1850–1852). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS:
COMMENT: The proposed amendments to 10 CSR 20-4.030, 4.041, and 4.043, are discriminatory, unfair, unnecessary and contrary to the interests of the consumers and citizens of the State of Missouri because it extends a distinction between political subdivisions of the state and all other businesses entitled to provide water-related functions because the regulations will require the repayment of grant funds if the facilities funded under a grant are sold to other than a political subdivision.
RESPONSE: Grant and loan funds are public funds provided through the state's constitution and repaid through tax revenues. They have been provided to recipient communities and public sewer districts to assist them in the financing of public wastewater facilities. These public funds, and the facilities constructed, are held in the public trust for the state. Financial returns attributable to the grant or loan should remain in the public trust. It should be noted that the constitution establishes that only public entities are eligible recipients of these grant and loan funds. No change was made as a result of this comment.

COMMENT: The state is creating barriers to privatization and preference for public ownership. There should be a level playing field for public utilities and private utilities.
RESPONSE: Constitutional language establishes that only public entities are eligible for assistance. No change was made as a result of this comment.

COMMENT: Loan repayment should only be on an accelerated repayment once a property sale is completed for any entity, not just private entities.
RESPONSE: The loan must also be paid if the property is sold to a public entity as well. No change was made as a result of this comment.

COMMENT: The distinction between public and private utilities funding is offered at the same time the SRF monies are becoming available to both public and private entities.
RESPONSE: Clean Water SRF funds are not available to private entities. This distinction is established in the federal Clean Water Act as opposed to the Drinking Water SRF which is available to private systems per the federal Safe Drinking Water Act.

COMMENT: It is discriminatory that revisions to 10 CSR 20-4.041(8)(E) states that direct loans made to other than public entities must become due and payable upon transfer.
RESPONSE: The Purchase Agreement for the bonds require that the proceeds of the sale to a public entity be applied to the redemption of the bonds or the replacement of the property/equipment disposed of. The sale to a private entity requires that the original cost of the property funded with public funds be used to redeem the bonds, regardless of the disbursement amount. The loan could never have been made to a private entity, so the original amount must be repaid. No change was made as a result of this comment.

COMMENT: The regulations should provide for advanced treatment eligibility.
RESPONSE: The construction of advanced wastewater treatment facilities or the modification of existing facilities to meet these standards is currently eligible. No change was made as a result of this comment.

COMMENT: The regulations should designate a portion of the funding for treatment facilities.
RESPONSE: While in many cases the water pollution abatement effort can best be addressed through new or upgraded treatment facilities, this is not always the case. Many times new collection or transportation systems are necessary to remedy the situation. The needs one year may not reflect those of another. The preponderance of our grant, and certainly our loan funds, will be and are used for treatment facilities. We would envision that earmarking funds for certain priorities as limiting and detrimental to the overall water pollution control effort. No change was made as a result of this comment.

COMMENT: The regulations should provide for a Hardship determination thereby providing qualifying communities additional assistance.
RESPONSE: The proposed regulations modify our existing federally funded Hardship program to be funded by state funds when available. In addition, low interest or zero interest loans may be available for qualifying communities. No change was made as a result of this comment.

COMMENT: The regulations should provide for an advanced treatment set aside.
RESPONSE: We believe that the current priority system adequately addresses the advanced treatment needs. Earmarking of funds would not provide the flexibility we have in our current system and would likely slow down these very important projects. Staff have reviewed the priority point formula and note that there are four and maybe five opportunities for communities needing advanced treatment to receive higher priority point assignments. Staff are developing a new priority point formula based on a watershed format. We are taking adequate measures to ensure that these needs are addressed accordingly therein as well. No change was made as a result of this comment.

COMMENT: There should be recognition of past financial efforts allowing them to be qualified as local match.
RESPONSE: Our current programs allow for the cost of engineering services and construction as part of the approved project. The grant amount is limited to forty percent of these eligible costs, regardless of when incurred, as long as prior department approvals were obtained. No change was made as a result of this comment.

COMMENT: The regulation should be modified to allow communities to access grant funding initially as opposed to the current approach of accessing the grant program if they do not qualify for loans.
RESPONSE: There is a critical shortage of grant funds to satisfy the needs of communities across the state. The current system is designed to promote equity between communities and put them on a level playing field. Accessing grant funds first would only accelerate their depletion to the exclusion of other needy applicants. No change was made as a result of this comment.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 4—Grants

ORDER OF RULEMAKING

By the authority vested in the Missouri Clean Water Commission under sections 644.026 and 644.101, RSMo Supp. 1999, the commission hereby amends a rule as follows:

10 CSR 20-4.043 Hardship Grant Program **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 2, 1999 (24 MoReg 1852). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS:
COMMENT: The proposed amendments to 10 CSR 20-4.030, 4.041, and 4.043, are discriminatory, unfair, unnecessary and contrary to the interests of the consumers and citizens of the State of Missouri because it extends a distinction between political subdivisions of the state and all other businesses entitled to provide water-related functions because the regulations will require the repayment of grant funds if the facilities funded under a grant are sold to other than a political subdivision.
RESPONSE: Grant funds are public funds provided through the state's constitution and repaid through tax revenues. They have been provided to recipient communities and public sewer districts to assist them in the financing of public wastewater facilities. These public funds, and the facilities constructed, are held in the public trust for the state. Financial returns attributable to the grant or loan should remain in the public trust. It should be noted that the constitution establishes that only public entities are eligible recipients of these grant funds. No change was made as a result of this comment.

COMMENT: The state is creating barriers to privatization and preference for public ownership. There should be a level playing field for public utilities and private utilities.
RESPONSE: Constitutional language establishes that only public entities are eligible for assistance. No change was made as a result of this comment.

COMMENT: Loan repayment should only be on an accelerated repayment once a property sale is completed for any entity, not just private entities.
RESPONSE: The loan must also be paid if the property is sold to a public entity as well. No change was made as a result of this comment.

COMMENT: The distinction between public and private utilities funding is offered at the same time the SRF monies are becoming available to both public and private entities.
RESPONSE: Clean Water SRF funds are not available to private entities. This distinction is established in the federal Clean Water Act as opposed to the Drinking Water SRF which is available to private systems per the federal Safe Drinking Water Act.

COMMENT: The regulations should provide for advanced treatment eligibility.
RESPONSE: The construction of advanced wastewater treatment facilities or the modification of existing facilities to meet these standards is currently eligible. No change was made as a result of this comment.

COMMENT: The regulations should designate a portion of the funding for treatment facilities.
RESPONSE: While in many cases the water pollution abatement effort can best be addressed through new or upgraded treatment facilities, this is not always the case. Many times new collection or transportation systems are necessary to remedy the situation. The needs one year may not reflect those of another. The preponderance of our grant, and certainly our loan funds, will be and are used for treatment facilities. We would envision that earmarking funds for certain priorities as limiting and detrimental to the overall water pollution control effort. No change was made as a result of this comment.

COMMENT: The regulations should provide for a Hardship determination thereby providing qualifying communities additional assistance.
RESPONSE: The proposed regulations modify our existing federally funded Hardship program to be funded by state funds when available. In addition, low interest or zero interest loans may be available for qualifying communities. No change was made as a result of this comment.

COMMENT: The regulations should provide for an advanced treatment set aside.
RESPONSE: We believe that the current priority system adequately addresses the advanced treatment needs. Earmarking of funds would not provide the flexibility we have in our current system and would likely slow down these very important projects. Staff have reviewed the priority point formula and note that there are four and maybe five opportunities for communities needing advanced treatment to receive higher priority point assignments. Staff are developing a new priority point formula based on a watershed format. We are taking adequate measures to ensure that these needs are addressed accordingly therein as well. No change was made as a result of this comment.

COMMENT: There should be recognition of past financial efforts allowing them to be qualified as local match.
RESPONSE: Our current programs allow for the cost of engineering services and construction as part of the approved project. The grant amount is limited to forty percent of these eligible costs, regardless of when incurred, as long as prior department approvals were obtained. No change was made as a result of this comment.

COMMENT: The regulation should be modified to allow communities to access grant funding initially as opposed to the current approach of accessing the grant program if they do not qualify for loans.
RESPONSE: There is a critical shortage of grant funds to satisfy the needs of communities across the state. The current system is designed to promote equity between communities and put them on a level playing field. Accessing grant funds first would only accelerate their depletion to the exclusion of other needy applicants. No change was made as a result of this comment.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 4—Grants

ORDER OF RULEMAKING

By the authority vested in the Missouri Clean Water Commission under sections 644.026 and 644.031, RSMo Supp. 1999, the commission hereby adopts a rule as follows:

10 CSR 20-4.061 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on July 15, 1999 (24 MoReg 1724–1730). Those subsections with changes are reprinted here. This proposed rule becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS:
COMMENT: It was requested that the makeup of the storm water coordinating committee be further defined in the regulation.
RESPONSE AND EXPLANATION OF CHANGE: Subsection (2)(D) was modified to better define the committee structure.

COMMENT: The comprehensive storm water management plan was not consistently referred to as a plan throughout the regulation.
RESPONSE AND EXPLANATION OF CHANGE: Subsection (3)(E) was revised to be consistent.

COMMENT: It was not clear-cut how extensive the evaluation of nonstructural approaches would need to be.
RESPONSE AND EXPLANATION OF CHANGE: Paragraph (3)(E)6. was modified to address this comment.

COMMENT: It was requested that park equipment and structures be allowed to be constructed in areas that have been purchased and are rezoned to disallow permanent structures.
RESPONSE AND EXPLANATION OF CHANGE: Subsection (5)(E) was modified to provide for park equipment.

COMMENT: Section (5)(I) was too restrictive for construction which proceeds prior to grant or loan award.
RESPONSE AND EXPLANATION OF CHANGE: Subsection (5)(I) was revised to allow ongoing projects to be eligible.

COMMENT: The grant payment process was not clearly outlined for projects which did not include construction.
RESPONSE AND EXPLANATION OF CHANGE: Subsection (11)(A) was modified to be more clear.

COMMENT: It is not clear how often loan payments are to be made. It is also not clear how projects with loans and matching grants will be paid.
RESPONSE AND EXPLANATION OF CHANGE: Sections (11) and (12) were modified for clarification.

COMMENT: Because of the high cost of bond issues, a request was made to allow for more flexibility in the debt structure.
RESPONSE AND EXPLANATION OF CHANGE: Subsection (12)(B) was revised to allow more flexibility and other debt structures.

COMMENT: It was requested that preparation of the storm water management plan not be restricted to registered professional engineers as required but be open for other professionals (e.g. Planner-in-Charge).
RESPONSE: A proper storm water management plan requires determination of runoff characteristics for each separate tributary area, times of concentration, methods of collection, routing, detention, and other technical information. All of these require application of engineering, hydraulic, geotechnical and bioengineering principles. These engineering services may only legally be provided by or under the supervision of a licensed professional engineer. No change was made as a result of this comment.

COMMENT: It was requested that larger projects be allowed to use more than two sequential years of grant funding.
RESPONSE AND EXPLANATION OF CHANGE: Subsection (5)(K) was revised to provide for up to five years of funding for larger projects.

COMMENT: It was requested that more emphasis be put on regional storm water management plans which extend beyond county and political boundaries.
RESPONSE: Although some restrictions exist because these funds may only go to first class counties, nothing in the rule precludes eligible counties and cities from combining their efforts and funds to encompass a larger area in their basin planning. No change was made as a result of this comment.

10 CSR 20-4.061 Storm Water Grant and Loan Program

(2) Definitions.

(D) Storm water coordinating committee (SCC). A local committee or group established by eligible applicants involved in project screening and project selection. In cities over twenty-five thousand (25,000) population, the SCC shall consist of a committee or organizational unit designated by the city manager. In St. Louis City and County, the SCC shall consist of a committee or organizational unit designated by the executive director of the Metropolitan St. Louis Sewer District. In all eligible counties, except St. Louis County, an SCC must be established which is representative of the county government and incorporated municipalities within the county.

(3) General Requirements.

(E) Planning Requirements. All storm water projects must be consistent with a comprehensive storm water management plan approved by the department prior to construction advertising. The geographical extent of the planning area may be determined by the department. Projects which are solely for bank stabilization or erosion control, or other projects as determined by the department, need only provide the items listed in paragraphs (3)(E)2., 4., and 6. The plan should include, but is not limited to:

1. A detailed map of the drainage area showing computed drainage acreage;

2. A narrative, a plan layout and estimated construction costs for each proposed project;

3. Tabulated storm water conceptual design parameters for each drainage area, that is, upstream acres, runoff coefficients,

time concentrations, return frequencies and so forth. Computer modeling information may be provided;

4. A recommended project improvement priority list;

5. A determination of the flood elevation changes resulting from each project, unless the Corps of Engineers has committed to remap the area; and

6. An evaluation of limited structural approaches to storm water control. The plan must analyze the use of applied geomorphology and bioengineering techniques to manage storm water. Projects that are only rehabilitation or replacement of existing structures will require an evaluation that addresses reasonable geomorphological alternatives and, if this approach is not taken, a brief discussion why not. For more complex projects, the evaluation should follow guidance provided by the U.S. Army Corps of Engineers Manual EM 1110-4000, *Engineering and Design—Sedimentation Investigations of Rivers and Reservoirs* or an equivalent guidance manual. Soil bioenginering techniques as described in Bowers, H. 1950, Erosion Control in California Highways, State of California, Department of Public Works, Division of Highways, shall be used unless other appropriate guidance is used and documented. The root causes of flooding, bed and bank erosion, and sediment deposition should be addressed in this plan. The plan should not exacerbate these problems by—

A. Modifications to stream systems that increase bed and bank erosion in modified stream sections;

B. Cause these impacts in sections that are upstream or downstream of the storm management project;

C. Remove or degrade aquatic habitat;

D. Remove the pollutant removal benefits of vegetated stream corridors; or

E. Lead to increased flooding upstream or downstream of the storm water management project. Combinations of measures can be employed to manage storm water and retain important stream functions. "Bioengineering" combines mechanical, biological, and ecological concepts to prevent slope failures and erosion. Bioengineering techniques may use bare root stock, stems, branches or trunks of living plants on eroded slopes. Plantings may be incorporated into such configurations as a live stakings, live fascines, or living cribwall. Vegetative plantings and cuttings may be combined with structural elements such as gabion baskets or rock surface armoring. However, the intent should be to minimize hard structural solutions and allow the rooted plantings to do much of the work to hold the soil in place and retain the natural function of streams to convey storm water. Other storm water management options include environmental easements and land acquisition.

(5) Eligible Project Costs. Eligible costs include the following:

(E) Land purchase or permanent easement costs required for storm water holding basins, grass-lined channels or for other limited structural storm water control projects, or buy-outs if the land purchased is restricted such that no permanent structure except for structures allowed under the Missouri Statewide Comprehensive Outdoor Recreation Plan (SCORP) may be constructed within the easement or purchase area. Construction costs related to holding basins on private land are eligible if the eligible applicant retains a permanent easement, is legally responsible for operation and maintenance of the facility, and the basin constructed is clearly for storm water control and not recreational use;

(I) Construction costs incurred prior to grant/loan award or DNR letter of commitment are eligible providing the planning and design phases of the project were reviewed and approved by the department prior to the final construction payment;

(K) Up to five (5) sequential years of grant and/or loan funding may be used for the same project as long as the contract is awarded within the time frame necessary to receive the first grant and/or loan of the sequence the recipient certifies that there are adequate funds committed from other sources to complete the construction; the recipient commits to the original funding combination for the entire sequence of grants and/or loans; and that the recipient certifies that the project will be completed with or without the subsequent year's grant/loan funds. No more than ninety percent (90%) of each annual grant will be paid until the final construction is complete and acceptable final inspection conducted by the department. Final grant payment will equal the balance of all grants in the sequence up to fifty percent (50%) of the final eligible project costs;

(M) Costs not included in subsections (5)(A)–(L) are eligible if determined by the department to be reasonable and necessary for the project.

(11) Grant Payments.

(A) For projects utilizing one year's funding which include construction and whose grants are not matched with loans from this program, payments will be made in no more than five (5) installments.

1. For grant awards which include planning, design, and construction in the project scope, the first payment will be made for engineering planning and design with submission of the final invoiced amount or request for allowance, on the reimbursement form provided by the department.

2. The next three (3) payments may be made when not less than twenty-five percent (25%), fifty percent (50%), and ninety percent (90%) of the construction of the project is completed. Payment must be requested on the form provided by the department and submitted with sufficient documentation. Reimbursement amounts shall be based upon percentage of the grant funds remaining after the first reimbursement is deducted. Projects which include planning only, grant payments will be made in the three (3) installments listed in this subsection based upon invoiced amount.

3. A final payment may be made when the project is completed and a final inspection is conducted by the department or approval obtained for the management plan.

(B) For projects which include basin planning only and whose grants are not matched with loans from this program, reimbursement will be made at 25, 50, 90 and 100% of plan completion as evidenced by invoices.

(C) Payments at no time shall exceed fifty percent (50%) of the eligible project cost incurred at the time payment is requested.

(D) Any cost of work completed after the final inspection by the department shall not be considered as part of the eligible project cost.

(E) An audit to verify eligible project costs will be made at the time of final payment and the grant adjusted downward, if necessary, to reflect actual costs.

(12) Loan Requirements.

(B) Loans must be secured with an acceptable debt instrument including revenue or general obligation bonds or debt issued pursuant to Environmental Improvement and Energy Resources Authority's (EIERA) SRF program policy on annual appropriation-backed debt. Other financing securities will be reviewed on a case-by-case basis. Tax Increment Financing (TIF) security structures will not be considered. Loans must be amortized over twenty (20) years or less from loan closure. Repayment must begin within one (1) year of loan closing.

(D) Loan payments will be made no more frequently than monthly. Grants matched by loans under this program will be paid simultaneously with loan payments.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 10—Underground Storage Tanks—Technical Regulations

ORDER OF RULEMAKING

By the authority vested in the Clean Water Commission under 319.137 and 644.026, RSMo Supp. 1999, the commission amends a rule as follows:

10 CSR 20-10.012 Definitions **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on May 3, 1999 (24 MoReg 1056). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 10—Underground Storage Tanks—Technical Regulations

ORDER OF RULEMAKING

By the authority vested in the Clean Water Commission under sections 319.137 and 644.026, RSMo Supp. 1999, the commission amends a rule as follows:

10 CSR 20-10.022 is amended.

A notice of proposed rulemaking containing the proposed amendment was published in the *Missouri Register* on May 3, 1999 (24 MoReg 1056–1057). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: One written comment was received on behalf of the Advisory Committee of the Petroleum Storage Tank Insurance Fund. There were no other comments.

COMMENT: The committee objects to the proposed change that imposes a thirty-day deadline on tank owners and operators for filing amended registration forms. The committee requests that this change to the rule not be finalized at this time. Committee members believe this creates an unnecessary requirement, and a new item for which tank owners may be penalized by the department. Also, it is not clear to the committee what the benefit of the new requirement would be.
RESPONSE AND EXPLANATION OF CHANGE: After discussing the registration process with committee members, the department agrees that the registration process needs to be evaluated to determine if further changes to the process would be beneficial to both industry and the department. The purpose of the registration process is to gather current information on all regulated tank systems in the state. Current, accurate information on all tank systems is critical to further the department's goal of protecting the environment through prevention of discharges and timely response to releases from petroleum storage tanks. By specifying a thirty-day time period, the department intended to eliminate any confusion about the time frame in which amended registrations must be filed. The current regulation requires an amended registration to be filed if any of the information on file with the department changes, but does not specify a time frame. The department has decided to reevaluate the registration process to determine if further changes need to be made to the process as a whole. Until this reevaluation is complete, the department believes that it is unnecessary to make any changes to the existing regulation at this time. For this reason, all proposed changes pertaining to the registration process have been removed in this Order of Rulemaking. If the issues concerning the registration process are not able to be resolved, the department may elect to proceed with the changes that were proposed at a future date.

10 CSR 20-10.022 Notification Requirements

(5) An owner/operator shall complete and file an updated registration form if the owner information or information regarding tank equipment and operation, as reported on the current registration with the department, changes.

(9) Information submitted to the department after January 1, 1990, under sections (1) through (6) of this rule for a tank brought into use before January 1, 1990, or for a tank brought into use after September 28, 1990, is an application for a Certificate of Registration and shall be accompanied by a fee as described in section (10), except as described in section (11).

(10) Fees required under section (9) of this rule shall be paid in one (1) payment of seventy-five dollars ($75). No fees shall be collected for registration of tanks which were permanently closed prior to August 28, 1989. No further fees shall be assessed upon registered USTs once permanent closure has been completed and any fees to date have been paid.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 10—Underground Storage Tanks—Technical Regulations

ORDER OF RULEMAKING

By the authority vested in the Clean Water Commission under sections 319.137 and 644.026, RSMo Supp. 1999, the commission withdraws a proposed amendment as follows:

10 CSR 20-10.068 Risk-Based Clean-Up Levels **is withdrawn**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on May 3, 1999 (24 MoReg 1057–1058). The commission has decided to withdraw this proposed amendment.

SUMMARY OF COMMENTS: One written comment was received on behalf of the Advisory Committee of the Petroleum Storage Tank Insurance Fund. There were no other comments.

COMMENT: The Committee objects to the proposed amendment and requests that it not be finalized at this time. The committee believes that because the subject matter of the rule, prioritization of remediation activities, is a crucial part of the State's overall approach to cleanups, the rule should remain as written until further opportunity to examine the content of the rule.
RESPONSE: The department agrees with the committee that prioritization of remediation sites utilizing a risk-based approach is a critical component of the department's approach to cleanups. The rule that the department has proposed to amend codifies the department's commitment to utilization of a risk-based approach in prioritization and remediation of sites. While the proposed amendment would not alter this commitment, discussions with the committee have identified issues relating to the content of the existing rule, including whether it is necessary to have the risk-based

approach codified in a regulation. The department believes that it is in the best interests of both the department and industry to resolve any outstanding issues, especially those relating to the need for the existing rule, before any changes are made to the text. Consistent with this determination, discussions with the committee have resulted in a commitment on behalf of the department to reevaluate the rule to determine whether the rule should be amended further or withdrawn altogether. For this reason, the department has decided to withdraw the proposed amendment at the present time. If the issues relating to the content of the rule are not resolved, the department may elect to proceed with the changes that have been proposed at a future date.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 10—Underground Storage Tanks—Technical Regulations

ORDER OF RULEMAKING

By the authority vested in the Clean Water Commission under sections 319.137 and 644.026, RSMo Supp. 1999, the commission amends a rule as follows:

10 CSR 20-10.071 Permanent Closure and Changes in Service **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on May 3, 1999 (24 MoReg 1058). There are no changes to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 11—Underground Storage Tanks—Financial Responsibility

ORDER OF RULEMAKING

By the authority vested in the Clean Water Commission under sections 319.137 and 644.026, RSMo Supp. 1999, the commission amends a rule as follows:

10 CSR 20-11.092 Definitions of Financial Responsibility Terms **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on May 3, 1999 (24 MoReg 1058). There are no changes to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 12—State Underground Storage Tank Insurance Fund

ORDER OF RULEMAKING

By the authority vested in the Clean Water Commission under sections 319.137 and 644.026, RSMo Supp. 1999, the commission rescinds a rule as follows:

10 CSR 20-12.010 Definitions **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on May 3, 1999 (24 MoReg 1058–1059). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 12—State Underground Storage Tank Insurance Fund

ORDER OF RULEMAKING

By the authority vested in the Clean Water Commission under sections 319.137 and 644.026, RSMo Supp. 1999, the commission rescinds a rule as follows:

10 CSR 20-12.020 Petroleum Transport Load Fee **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on May 3, 1999 (24 MoReg 1059). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 12—State Underground Storage Tank Insurance Fund

ORDER OF RULEMAKING

By the authority vested in the Clean Water Commission under sections 319.137 and 644.026, RSMo Supp. 1999, the commission rescinds a rule as follows:

10 CSR 20-12.025 Eligibility **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on May 3, 1999 (24 MoReg 1059). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 12—State Underground Storage Tank Insurance Fund

ORDER OF RULEMAKING

By the authority vested in the Clean Water Commission under sections 319.137 and 644.026, RSMo Supp. 1999, the commission rescinds a rule as follows:

10 CSR 20-12.030 Participation Fee **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on May 3, 1999 (24 MoReg 1059–1060). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 12—State Underground Storage Tank Insurance Fund

ORDER OF RULEMAKING

By the authority vested in the Clean Water Commission under sections 319.137 and 644.026, RSMo Supp. 1999, the commission rescinds a rule as follows:

10 CSR 20-12.040 Applications **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on May 3, 1999 (24 MoReg 1060). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 12—State Underground Storage Tank Insurance Fund

ORDER OF RULEMAKING

By the authority vested in the Clean Water Commission under 319.137 and 644.026, RSMo Supp. 1999, the commission rescinds a rule as follows:

10 CSR 20-12.045 Review of Applications **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on May 3, 1999 (24 MoReg 1060). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 12—State Underground Storage Tank Insurance Fund

ORDER OF RULEMAKING

By the authority vested in the Clean Water Commission under sections 319.137 and 644.026, RSMo Supp. 1999, the commission rescinds a rule as follows:

10 CSR 20-12.050 Proof of Integrity **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on May 3, 1999 (24 MoReg 1061). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 12—State Underground Storage Tank Insurance Fund

ORDER OF RULEMAKING

By the authority vested in the Clean Water Commission under sections 319.137 and 644.026, RSMo Supp. 1999, the commission rescinds a rule as follows:

10 CSR 20-12.060 General Reimbursement Procedures **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on May 3, 1999 (24 MoReg 1061). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 12—State Underground Storage Tank Insurance Fund

ORDER OF RULEMAKING

By the authority vested in the Clean Water Commission under sections 319.137 and 644.026, RSMo Supp. 1999, the commission rescinds a rule as follows:

10 CSR 20-12.061 Cleanup Costs Reimbursements Criteria **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on May 3, 1999 (24 MoReg 1061–1062). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 12—State Underground Storage Tank Insurance Fund

ORDER OF RULEMAKING

By the authority vested in the Clean Water Commission under sections 319.137 and 644.026, RSMo Supp. 1999, the commission rescinds a rule as follows:

10 CSR 20-12.062 Third-Party Claims **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on May 3, 1999 (24 MoReg 1062). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 12—State Underground Storage Tank Insurance Fund

ORDER OF RULEMAKING

By the authority vested in the Clean Water Commission under sections 319.137 and 644.026, RSMo Supp. 1999, the commission rescinds a rule as follows:

10 CSR 20-12.070 Membership **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on May 3, 1999 (24 MoReg 1062). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 12—State Underground Storage Tank Insurance Fund

ORDER OF RULEMAKING

By the authority vested in the Clean Water Commission under sections 319.137 and 644.026, RSMo Supp. 1999, the commission rescinds a rule as follows:

10 CSR 20-12.080 Sites With Existing Contamination **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on May 3, 1999 (24 MoReg 1062–1063). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 13—Underground Storage Tanks—Administrative Penalties

ORDER OF RULEMAKING

By the authority vested in the Clean Water Commission under sections 319.137 and 644.026, RSMo Supp. 1999, the commission rescinds a rule as follows:

10 CSR 20-13.080 Penalty Assessment Protocol **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on May 17, 1999 (24 MoReg 1239). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 13—Underground Storage Tanks—Administrative Penalties

ORDER OF RULEMAKING

By the authority vested in the Clean Water Commission under sections 319.137 and 644.026, RSMo Supp. 1999, the commission adopts a rule as follows:

10 CSR 20-13.080 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on May 17, 1999 (24 MoReg 1239–1247). Those sections with changes are reprinted here. This proposed rule becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The department received five written comments on the proposed rule. There were no oral comments offered at the public hearing held before the Clean Water Commission on September 15, 1999.

COMMENT: The Executive Director of the Missouri Oil Council commented that current protocol provides that a penalty will not be assessed following resolution of a violation by conference, conciliation, and persuasion unless the violation resulted in significant harm to human health or the environment. This provision is an incentive for the regulated community to work with the agency to resolve issues expediently. The comment states that the proposed rule would require penalties to be assessed following resolution through conference, conciliation and persuasion, even in cases where no real environmental harm had occurred. The Council questions why a party that cooperates in order to successfully resolve a violation should be fined in such cases. They recommend that minor violations that have only a potential for environmental harm not be subject to penalty if resolved through conference, conciliation, and persuasion.

RESPONSE: The commenter is correct in noting that the proposed rule changes the language regarding when a penalty may be assessed after the violation has been resolved through conference, conciliation, and persuasion. Under the existing rule, once a violation has been resolved, no penalty may be assessed as long as the violation did not result in significant harm to human safety or health, or to the environment and is corrected within a period of time not to exceed six (6) months. This language was rewritten in the proposed rule to mirror the authorizing statute, section 319.139, RSMo, which delineates more specifically the situations in which a penalty may be assessed even after the violation has been resolved through conference, conciliation, and persuasion. The department is unable to make the change requested because it would conflict directly with the statutory language. Additionally, the comment incorrectly states that the proposed rule "requires penalties in cases which are not minor violations or which were knowingly committed." In those situations, the proposed rule merely states that assessment of a penalty is not prohibited.

Administrative penalties would be permitted, but not required. The decision whether to assess a penalty is left to the discretion of the department, with one exception. The statute specifically prohibits assessment of a penalty for violations classified as minor. No change was made as a result of this comment.

COMMENT: The City of Independence, Water Pollution Control Department, commented on subparagraph (3)(A)1.B. of the proposed rule. The comment states that it is unclear what sorts of violations would be considered to have an "adverse effect," as that term is used in this section of the rule. The comment noted that the proposed rule does not contain examples that help to clarify interpretation of the policy.

RESPONSE: As noted in the comment, the proposed rule does not contain examples of violations that would be considered to have an adverse effect on the purposes of or procedures for implementing the law. The department believes that the meaning of the term is clear, without requiring specific examples or further clarification. The term encompasses violations that are contrary to the intent and overall purpose of the law. Possible examples of such violations could include, for instance, failing to keep required records and failing to disclose any of the information required by law to be disclosed. Whether these types of violations have an adverse effect may only be determined on a case-by-case basis. Omitting examples allows the flexibility to assess an appropriate penalty amount for a specific situation, based upon the factual circumstances. No change was made as a result of this comment.

COMMENT: The City of Independence, Water Pollution Control Department, commented on subparagraph (3)(A)1.C. The comment states that the proposed rule does not explain how "substantial risk" or "substantial adverse effect" will be distinguished from "significant risk" or "significant adverse effect" in determining whether violations will be categorized as having major, moderate, or minor potential for harm.

RESPONSE: As noted in the comment, the proposed rule does not explain the distinction between "substantial" and "significant" in determining the category of violation as major, moderate, or minor. Threats to human health or the environment posed by individual violations represent a continuum from major potential for harm to minor potential for harm. Language describing the adverse effect or risk posed by a violation within the rule is intended to mirror this continuum. An example of a violation that could be classified either as a significant potential for harm or a substantial potential for harm based upon the number of occurrences is the failure to document calibration, maintenance, or repair of release detection equipment. Missing documentation for one or two of these repairs would probably be classified as significant. If the violator is missing documentation for each and every repair of the equipment, the violation would escalate to substantial potential for harm. Although missing documentation doesn't immediately threaten the environment, the department interprets lack of documentation as a failure to perform the required activity. The failure to maintain equipment could eventually lead to a release to the environment. The likelihood of equipment failure increases with the time that the equipment is not properly maintained. The respective categories allow the department to categorize violations and assess appropriate penalties based on the potential for harm to the environment. No change was made as a result of this comment.

COMMENT: The City of Independence, Water Pollution Control Department, commented on paragraph (3)(A)2. The comment states that the proposed rule does not explain how "substantial," "significant," and "slight" deviations from requirements of the law will be determined in assessing whether the extent of deviation will be categorized as major, moderate, or minor.

RESPONSE: As noted in the comment, the proposed rule does not explain the distinction between "substantial," "significant" and "slight" in categorizing the extent of deviation of a violation as major, moderate, or minor. The extent that violations deviate from the requirements represents a continuum from major to minor deviations. Language, such as "substantial," "significant," and "slight," describing the extent that a violation deviates from established requirements, is intended to mirror this continuum. An example of a violation that could be classified either as significant extent of deviation or substantial extent of deviation based upon the number of occurrences is the failure to maintain records of cathodic protection inspections. Missing documentation for one or two of these inspections would probably be classified as significant. If the violator is missing documentation for each and every inspection of the cathodic protection system, the violation would escalate to substantial extent of deviation. In much the same way, an example helps to illustrate the difference between a slight extent of deviation and a significant extent of deviation. The failure to provide a complete certification of installation of an Underground Storage Tank would be classified as slight. The failure to provide any certification of installation would be significant. The respective categories allow the department to categorize violations and assess appropriate penalties based on the specifics of individual violations. No change was made as a result of this comment.

COMMENT: A staff member noted that, in some instances, the matrix values in the proposed rule fail to weight a violation's potential for harm more heavily than the violation's extent of deviation. For example, a violation with a major potential for harm and a minor extent of deviation could be assessed a lower penalty than a violation with only moderate potential for harm, but major extent of deviation. The matrix amounts should be revised so that the potential for harm should be the primary factor in determining this portion of the penalty amount, i.e. the greater the potential for harm, the greater the penalty. Consistent with the intent of the administrative penalty statute, penalties from the matrix should always increase as the potential for harm increases.

RESPONSE AND EXPLANATION OF CHANGE: The department agrees with the comment. As noted in the comment, the matrix is intended to allow for an increased amount the greater the potential for harm presented by the violation. The lowest penalty amount for a moderate potential for harm should be higher than the highest amount for a minor potential for harm. As proposed, there was a range under which penalties classified as minor potential for harm overlapped with penalties classified as moderate potential for harm. This was noticed during the public comment period and has been corrected in this Order of Rulemaking. The penalty amounts in the matrix have been revised to eliminate this situation. The changes made as a result of this comment are reprinted below.

10 CSR 20-13.080 Administrative Penalty Assessment

(3) Determination of Penalties. The calculation of the amount of an administrative penalty will involve the application of a gravity-based assessment under subsection (3)(A) and may involve additional factors for multiple violations, (3)(B), multi-day violations, (3)(C), and economic benefit resulting from noncompliance, (3)(D). The resulting administrative penalty may be further adjusted as specified under (3)(E).

(A) Gravity-Based Assessment. The gravity-based assessment is determined by evaluating the potential for harm posed by the violation and the extent to which the violation deviates from the requirements of the law.

1. Potential for harm. The potential for harm posed by a violation is based on the risk to human health or the environment or to the purposes of implementing the law and associated rules or permits.

A. The risk of exposure is dependent on both the likelihood that humans or the environment may be exposed to contaminants and the degree of potential exposure. Penalties will reflect the probability the violation either did result in or could have resulted in a release of contaminants in the environment, and the harm which either did occur or would have occurred if the release had in fact occurred.

B. Violations which may or may not pose a potential threat to human health or the environment, but which have an adverse effect upon the purposes of or procedures for implementing the law and associated rules or permits may be assessed a penalty.

C. The potential for harm shall be evaluated according to the following degrees of severity:

(I) Major. The violation poses or may pose a substantial risk to human health or to the environment, or has or may have a substantial adverse effect on the purposes of or procedures for implementing the law and associated rules and/or permits;

(II) Moderate. The violation poses or may pose a significant risk to human health or to the environment, or has or may have a significant adverse effect on the purposes of or procedures for implementing the law and associated rules and/or permits; and

(III) Minor. The violation does not pose significant or substantial risk to human health or to the environment, was not knowingly committed, and is not defined by the United States Environmental Protection Agency as other than minor.

2. Extent of deviation. The extent of deviation may range from slight to total disregard of the requirements of the law, and associated rules and permits. The assessment will reflect this range and will be evaluated according to the following degrees of severity:

A. Major. The violator has deviated substantially from the requirements of the law, associated rules, or permits resulting in substantial noncompliance;

B. Moderate. The violator has deviated significantly from the requirements of the law, associated rules, or permits resulting in significant noncompliance; and

C. Minor. The violator has deviated slightly from the requirements of the law, associated rules, or permits that does not result in substantial or significant noncompliance; most provisions were implemented as intended; the violation was not knowingly committed; and is not defined by the United States Environmental Protection Agency as other than minor.

3. Gravity-based penalty assessment matrix. The matrix that follows will be used to determine the gravity-based assessment portion of the administrative penalty. Potential for harm and extent of deviation form the axes of the matrix. The penalty range selected may be adapted to the circumstances of a particular violation.

Gravity-Based Penalty Assessment Matrix

Potential for Harm	Extent of Deviation		
	Major	Moderate	Minor
Major	$2,000–$1,500	$1,500–$1,250	$1,250–$1,000
Moderate	$1,000–$750	$750–$500	$500–$250
Minor	$250–$200	$125–$100	$0

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—Public Drinking Water Program
Chapter 3—Permits

ORDER OF RULEMAKING

By the authority vested in the Safe Drinking Water Commission under section 640.100, RSMo Supp. 1999, the commission amends a rule as follows:

10 CSR 60-3.010 Construction Authorization, Final Approval of Construction, Owner-Supervised Program and Permit to Dispense Water **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the August 2, 1999 *Missouri Register* (24 MoReg 1852–1854). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: At the public hearing on September 9, 1999 the department testified that the amendment requires compliance with the proposed continuing operating authority and technical, managerial and financial capacity rules; adds conditions for modifying or revoking a permit to dispense consistent with those new rules; and makes organizational and clarifying changes to existing rule.

No comments were made at the public hearing. In a written comment, the representative of a water association observed that the rule remains basically the same except when applied to community water systems commencing operation after October 1, 1999.

No changes are made to the proposed amendment. It is adopted as proposed.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—Public Drinking Water Program
Chapter 3—Permits

ORDER OF RULEMAKING

By the authority vested in the Safe Drinking Water Commission under section 640.100, RSMo Supp. 1999, the commission adopts a rule as follows:

10 CSR 60-3.020 Continuing Operating Authority **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the August 2, 1999 *Missouri Register* (24 MoReg 1854–1862). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: At the public hearing on September 9, 1999 the department testified that the rule establishes requirements for water systems to have a continuing operating authority that is responsible for the management, maintenance, and operation of the water system. The rule establishes a preferential order for continuing operation authorities, requires compliance with the proposed continuing operating authority and technical, managerial and financial capacity rules; adds conditions for modifying or revoking a permit to dispense consistent with those new rules; and makes organizational and clarifying changes to existing rule.

In a written comment, the representative of a water association commented that the rule does not seem to pose a threat to or create major concerns for their facilities.

No changes are made to the proposed rule. It is adopted as proposed.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—Public Drinking Water Program
Chapter 3—Permits

ORDER OF RULEMAKING

By the authority vested in the Safe Drinking Water Commission under section 640.100, RSMo Supp. 1999, the commission adopts a rule as follows:

10 CSR 60-3.030 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the August 2, 1999 *Missouri Register* (24 MoReg 1863–1869). Changes have been made in the text of the proposed rule and those sections are reprinted here. This proposed rule becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: At the public hearing on September 9, 1999 the department testified that the rule establishes technical, managerial and financial capacity requirements for community and nontransient noncommunity water systems commencing operation after October 1, 1999. The rule also includes technical and financial capacity recommendations. Being able to require that water systems have technical, managerial and financial capacity and specify a continuing operating authority will benefit the public by helping to ensure that public water systems provide safe and adequate supplies of drinking water.

No comments were made on this rule at the public hearing. Written comments were received from a water association and a public water system.

COMMENT: The representative of a water association commented that the rule does not seem to pose a threat to or create major concerns for their facilities.
RESPONSE: No action is necessary.

COMMENT: The representative of a water system commented that the reference in paragraphs (3)(A)1. and 2. to the standards for community and noncommunity water systems needs to be more specific.
RESPONSE AND EXPLANATION OF CHANGE: The commission is amending the paragraphs to add the word "department" before the titles of the manuals. "Department," by definition, refers to the Missouri Department of Natural Resources.

COMMENT: The representative of a public water system asked if there should be some minimum requirements for distribution maps in paragraph (3)(A)4.
RESPONSE AND EXPLANATION OF CHANGE: The commission agreed with the comment and has changed the paragraph accordingly.

COMMENT: The representative of a public water system commented that paragraph (3)(B)5. requires the system to designate a person to be responsible for compliance, but the owner of the system is responsible for compliance and cannot transfer that responsibility. The commenter suggested that the rule be changed to require the owner to designate a person to deal with compliance-related issues, rather than be responsible for compliance.
RESPONSE AND EXPLANATION OF CHANGE: The commission agreed with the comment and has changed the rule accordingly.

COMMENT: The representative of a public water system commented that it is not clear in paragraph (3)(C)3. whether the requirement for a five-year budget is for a capital improvement budget or an operating budget.
RESPONSE AND EXPLANATION OF CHANGE: A five-year budget for capital improvements and a five-year capital improvement plan are required. To be more specific, the commission has rewritten the sentence to refer specifically to a five (5)-year capital improvement budget and plan.

COMMENT: The representative of a public water system commented that it is not appropriate for debt service reserve requirements to be in regulation. Debt service reserve requirements are detailed in bond covenants and negotiated between issuers and buyers, and are watched closely by several parties. The commenter pointed out that if a debt service reserve fund were fully funded, this rule would prohibit the interest earnings from the fund to be used for other purposes. This rule would limit the negotiating ability of issuers and would regulate something that does not need to be regulated in the drinking water rules.
RESPONSE AND EXPLANATION OF CHANGE: It has proven beneficial for funding agencies to require a debt service reserve so we feel it is needed for adequate financial capacity. However, the commenter's point about debt service reserve requirements being in the bond covenants is well-founded. In response to the comment, subparagraph (3)(C)5.C. is expanded to allow the debt service reserve to be used for purposes agreed to in the bond covenant and to cover situations when there would be no bond covenant.

10 CSR 60-3.030 Technical, Managerial and Financial Capacity

(3) Minimum Technical, Managerial, and Financial Capacity Requirements.

(A) Minimum Technical Capacity Requirements.

1. All community water systems subject to this rule must conform to the department's "Standards for Community Public Water Supplies."

2. All nontransient noncommunity water systems subject to this rule must conform to the department's "Standards for Non-Community Public Water Supplies."

3. All public water systems subject to this rule shall have a sufficient number of operators certified as required in 10 CSR 60-14 to provide proper operation and maintenance of all source, treatment, storage, and distribution facilities so that the public water system meets all requirements of sections 640.100–640.140, RSMo and regulations promulgated thereunder. These operators shall be properly trained and be provided all equipment needed, including safety equipment, to perform all tasks in their job duties.

4. All public water systems subject to this rule shall have and maintain an updated distribution system map showing, at a minimum, the size and location of all waterlines, values, hydrants, storage facilities, pumping facilities, treatment facilities, and water sources and shall make the map available to the department on request.

(B) Minimum Managerial Capacity Requirements.

1. Community and nontransient noncommunity water systems subject to this rule shall have an organization chart that shows every position that provides any drinking water function with the position title, name, business address, and telephone number of the person filling that position. This chart shall show clear lines of authority and supervision. Elected officials and managers that have overall jurisdiction shall also be shown on this chart. The chart shall state the name(s) of the persons or legal entity who own the public water system along with the business address and telephone number of the owner(s). This chart shall be publicly displayed and shall be updated within thirty (30) calendar days of any changes. An updated copy of the organization chart shall be made available to the department.

2. Community and nontransient noncommunity water systems subject to this rule shall designate a person or persons who will receive customer complaints and shall have a written procedure for receiving, investigating, resolving, and recording customer complaints. The name, title, business address, business telephone number and office hours of the person(s) designated to receive complaints shall be publicly displayed, along with the written complaint procedure. Complaint records shall be kept for a minimum of five (5) years and shall be made available to the department upon request. Results of investigations shall be used as part of the planning process for future improvements.

3. Community and nontransient noncommunity water systems subject to this rule shall have a written rate structure and service

fees, and the rate structure and service fees shall be publicly displayed and shall be made available to the department upon request.

4. Community and nontransient noncommunity water systems subject to this rule shall hold at least one (1) public meeting prior to changing the rate structure or service fees and shall notify the customers in advance of the public meeting by posting notice in the principal business office and providing notice in the area served, unless the rate increase procedure is regulated by other state or federal regulations. Records of customers' notice and summary of the public meeting shall be kept for a minimum of five (5) years and shall be made available to the department upon request.

5. Community and nontransient noncommunity water systems subject to this rule shall designate a person to deal with compliance-related issues in accordance with the public drinking water regulations in 10 CSR 60, including reporting and public notice requirements. This person shall be trained in public drinking water regulation requirements and shall act as liaison with the department on drinking water issues. The department will refer compliance actions to this person. The name, position title, business address, business telephone number, and office hours for this person shall be made available to the department and the department shall be notified within thirty (30) calendar days of any change.

(C) Minimum Financial Capacity Requirements.

1. Community and nontransient noncommunity water systems subject to this rule shall adhere to standard accounting practices in accordance with the Generally Accepted Accounting Principles and Practices, or the National Assocation of Regulated Utility Companies Uniform System of Accounts, as appropriate.

2. Community and nontransient noncommunity water systems subject to this rule shall develop and implement a system of collection of water fees that includes disconnection of service for nonpayment or other measures for obtaining payment. The total of uncollected fees and the percentage of uncollected fees compared to sum of collected and uncollected fees shall be recorded monthly. These records shall be made available to the department upon request.

3. Community and nontransient noncommunity water systems subject to this rule shall develop an annual budget showing public water system revenues and expenditures, shall prepare a report at the end of each fiscal year showing public water system revenues and expenditures for that year and a comparison with the annual budget prepared for that year, and shall prepare a five (5)-year capital improvement budget and capital improvement plan that will be updated annually. The capital improvement plan shall include the potential financial impacts of future regulations. These records shall be kept for a minimum of ten (10) years and shall be made available to the department upon request.

4. Annual revenues shall cover all public water system costs for the system including operating costs, maintenance costs, debt service costs, operating reserves, debt service reserves, emergency equipment replacement reserves, and revenue collection costs.

5. Community and nontransient noncommunity water systems subject to this rule and not subject to state regulation of rates for water service, in addition to all other financial capacity requirements, shall have and maintain—

A. An operating reserve equal to or greater than one-tenth (1/10) of the annual operations and maintenance budget. The public water system must establish this reserve in at least annual payments not to exceed ten (10) years. Funds from the operating reserve shall be used for operating and maintenance expenses only and shall be replaced within ten (10) years from the date of use. This reserve shall be invested in an account with ready access to the funds. Records of this reserve shall be made available to the department upon request. Other private, state, or federal reserves may be applied to meet this requirement;

B. An emergency equipment replacement reserve equal to or greater than the replacement cost of the most expensive mechanical equipment item needed for operation. The public water system must establish this reserve in at least annual payments over a minimum of ten (10) years. Funds from the reserve shall be used for emergency equipment replacement expenses only and any funds so used shall be replaced within ten (10) years from the date of use. This reserve shall be invested in an account with ready access to the funds. Records of this reserve shall be made available to the department upon request. Other private, state, or federal reserves may be applied to meet this requirement; and

C. If there is debt on the public water system facilities, a debt service reserve no less than ten percent (10%) of the principle and interest or the amount required in the bonding agreement. Funds from the debt service reserve shall be used only for debt service expenses and for purposes agreed to in the bonding agreement and shall be replaced no less than as required in the bonding agreement. Records of this reserve shall be made available to the department upon request.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—Public Drinking Water Program
Chapter 5—Laboratory and Analytical Requirements

ORDER OF RULEMAKING

By the authority vested in the Safe Drinking Water Commission under section 640.100, RSMo Supp. 1999, the commission amends a rule as follows:

10 CSR 60-5.010 Accepted and Alternate Procedures for Analyses **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the August 2, 1999 *Missouri Register* (24 MoReg 1870–1878). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: At the public hearing on September 9, 1999 the department testified that the amendment is part of the Consumer Confidence Report rulemaking. The amendment adds a list of detection limits for radiological contaminants that are listed in federal regulations and referenced in the Consumer Confidence Reports rule. No comments were received on this amendment and it is adopted as proposed.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—Public Drinking Water Program
Chapter 6—Enforcement

ORDER OF RULEMAKING

By the authority vested in the Safe Drinking Water Commission under section 640.100, RSMo Supp. 1999, the commission amends a rule as follows:

10 CSR 60-6.010 Procedures and Requirements for Variances **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the August 2, 1999 *Missouri Register* (24 MoReg 1878–1880). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: At the public hearing on September 9, 1999 the department testified that the amendment implements federal requirements pertaining to general variances in section 1415 of the Safe Drinking Water Act and the federal rules in 40 CFR 142 and clarifies existing rule language. The proposed changes allow the department to grant a variance to a public water system before the system installs best available technology or treatment techniques. The system must show that alternative sources of water are not reasonably available. In making a variance determination, the department will consider the characteristics of the raw water source, availability of an alternative water source and risk to health. No comments were received on the amendment. It is adopted as proposed.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—Public Drinking Water Program
Chapter 6—Enforcement

ORDER OF RULEMAKING

By the authority vested in the Safe Drinking Water Commission under section 640.100, RSMo Supp. 1999, the commission amends a rule as follows:

10 CSR 60-6.020 Procedures and Requirements for Exemptions **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the August 2, 1999 *Missouri Register* (24 MoReg 1880–1885). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: At the public hearing on September 9, 1999 the department testified that the amendment implements federal requirements pertaining to exemptions in section 1416 of the Safe Drinking Water Act and the federal rules in 40 CFR 142, and clarifies existing rule language. The amendment would allow the department to grant an exemption to a public water system from meeting maximum contaminant level or treatment technique requirements if the system is unable to develop an alternative source of water supply. The system must establish that it has considered management and restructuring changes. No comments were received on the amendment. It is adopted as proposed.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—Public Drinking Water Program
Chapter 6—Enforcement

ORDER OF RULEMAKING

By the authority vested in the Safe Drinking Water Commission under section 640.100, RSMo Supp. 1999, the commission amends a rule as follows:

10 CSR 60-6.030 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the August 2, 1999 *Missouri Register* (24 MoReg 1886–1887). Changes have been made in the text of the proposed amendment, so those sections are reprinted here. This proposed amendment becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: At the public hearing on September 9, 1999 the department testified that the amendment incorporates federal requirements pertaining to compliance schedules for general variances and exemptions. Also, the rule is reorganized to cover general variances in section (1), exemptions in section (2), and to move some requirements to 10 CSR 60-6.020. The proposed changes to these rules provide several benefits. The changes allow public water systems more time to install BAT, enhance protection of public health by ensuring that the department's decisions are based on relevant information on water quality and water sources, and ensure that Missouri maintains primacy. The clarifications in wording and structure benefit public water systems, the public, and the department by making the rules easier to understand and implement.

No comments were made at the public hearing.

COMMENT: A comment letter was received from the representative of a public water system. The commenter recommended changing the references to an "alternative raw water source" in subsection (1)(B) and subparagraphs (2)(F)1. and 2. to "alternative water source" for consistency with other regulations.

RESPONSE AND EXPLANATION OF CHANGE: The commission agreed with the commenter and the changes are reprinted here.

10 CSR 60-6.030 Schedules for Variances and Exemptions

(1) Schedules for Variances Granted Under 10 CSR 60-6.010.

(B) Schedule for Compliance.

1. A proposed schedule for compliance shall contain the conditions as the department may prescribe and shall specify dates by which steps toward compliance are to be taken, including, where applicable:

A. The date by which arrangement for an alternative water source or improvement of existing raw water source will be completed;

B. The date of initiating the connection to an alternative water source or improving the existing raw water source; and

C. The date by which final compliance is to be achieved.

2. Alternative for Compliance. The proposed schedule for compliance for a ariance specified in this rule, if the public water system has no access to an alternative water source and can effect or anticipate no adequate improvement of the existing raw water source, may specify an indefinite time period for compliance until a new and effective treatment technology is developed. A new compliance schedule shall be prescribed by the department at that time.

(C) Public Hearing. Before the schedule may take effect, the department shall provide notice and opportunity for a public hearing on the schedule as specified in 10 CSR 60-6.040. The notice and hearing may cover more than one schedule.

(D) Interim Measures. The proposed schedule for implementation of interim control measures during the period of the variance shall specify interim treatment techniques, methods, equipment and dates by which steps toward meeting the interim control measures are to be met.

(2) Schedules for Exemptions Granted Under 10 CSR 60-6.020.

(F) Schedule for Compliance. A proposed schedule for compliance shall contain the conditions as the department may prescribe and shall specify dates by which steps toward compliance are to be taken, including, where applicable:

1. The date by which arrangement for an alternative water source or improvement of existing raw water source will be completed;

2. The date of initiating the connection to an alternative water source or improving the existing raw water source; and

3. The date by which final compliance is to be achieved.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—Public Drinking Water Program
Chapter 6—Enforcement

ORDER OF RULEMAKING

By the authority vested in the Missouri Safe Drinking Water Commission under section 640.100, RSMo Supp. 1999, the commission adopts a rule as follows:

10 CSR 60-6.070 Administrative Penalty Assessment **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on August 2, 1999 (24 MoReg 1887–1898). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: At the public hearing on September 9, 1999 the department testified that the rule establishes the procedures for issuance of administrative orders and assessment of administrative penalties. The rule is based on the statutory requirements in section 640.131, RSMo and on the Division of Environmental Quality's template for administrative penalty rules. The rule is very similar to other environmental programs' administrative penalty rules. The rule sets forth procedures for issuing an administrative order; requires the department to use conference, conciliation and persuasion to try to resolve the violation before assessing a penalty; and sets criteria for determining the penalty amount. An administrative order assessing a penalty can be appealed to the Safe Drinking Water Commission. Administrative order and penalty authority benefits the water-consuming public by providing another tool for the department to use to encourage compliance, and it is a federal primacy requirement.

No comments were made on this rule at the public hearing. The representative of a water association submitted written comments.

COMMENT: The representative of a water association commented that it would be more equitable to allow cited facilities to have input and present their case in a public hearing prior to the initial finding of culpability.

RESPONSE: The conference, conciliation, and persuasion process required under the proposed rule provides opportunity for the facility officials to ask questions, provide additional information on extenuating circumstances, or raise concerns about violations before an administrative penalty is issued. In addition, the appeal process provides regulated facility officials with the opportunity to question the appropriateness of an administrative penalty. The process proposed in the rule is consistent with the statutory language and the proposed process for the other environmental programs. A public hearing would unnecessarily delay and complicate the enforcement action and would hinder efforts to resolve violations in a timely manner. No changes have been made to the proposed rule as a result of this comment.

COMMENT: The representative of a water association commented that the term "violation" is loosely used in the rule, and that the language in subsection (1)(B) is a "very broad-based statement and could possibly be used to address positive coliform samples, boil orders, cryptosporidium and *giardia*, all based solely on the discretion of the Director." The commenter stated that the proposed rule was designed with chronic offenders in mind, but that it may have an unintended impact on facilities that make every effort to remain compliant and only experience occasional problems.

RESPONSE: The language in subsection (1)(B) is identical to the statutory language in section 640.131.1, RSMo (cum. supp. 1998), and is consistent with that used in other environmental laws and regulations in Missouri. It requires the department to use conference, conciliation and persuasion and prohibits administrative penalties for minor violations. The commission does not agree that it gives the director sole discretion to assess a penalty. Administrative penalties can be applied only when a violation exists. Specific conditions for what constitutes a violation are set forth throughout the drinking water regulations. Administrative penalties may or may not be applicable to the items listed by the commenter (positive coliform samples, boil orders, cryptosporidium, and *giardia*) depending on whether a violation exists and efforts to resolve the violation have failed. No changes have been made to the proposed rule as a result of this comment.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—Public Drinking Water Program
Chapter 8—Public Notification

ORDER OF RULEMAKING

By the authority vested in the Safe Drinking Water Commission under section 640.100, RSMo Supp. 1999, the commission adopts a rule as follows:

10 CSR 60-8.030 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on August 2, 1999 (24 MoReg 1899–1914). Those sections with changes are reprinted here. This proposed rule becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: At the public hearing on September 9, 1999, the department testified that the rule would implement federal requirements by requiring community water systems to prepare and distribute a Consumer Confidence Report annually. The report describes the source of water, detects of contaminants, violations, and other information related to drinking water and health. The method of distribution of the report varies according to system size. There were no comments related to this rule at the public hearing. One comment letter was received during the comment period.

COMMENT: The U.S. Environmental Protection Agency commented that under subsection (1)(E), the information provided by systems that sell water to systems that buy water from them is described as a "report." Since elsewhere in the rule the word "report" is used to describe a complete Consumer Confidence Report, the use here may be confusing and that "the required information" might be a better alternative.

RESPONSE: The commission agrees that this may cause confusion and is changing the wording as suggested.

COMMENT: The U.S. Environmental Protection Agency commented that Appendix C (Health Effects Language) needs to be attached since it is referred to in the proposed rule.

RESPONSE: The commission responded that Appendix C was included in the proposed rule and published in the August 2, 1999 *Missouri Register* on pages 1908–1910. No change is needed to the rule.

COMMENT: The U.S. Environmental Protection Agency commented that under subsection (3)(D) the language should read: "Systems which detect lead above the action level in more than five percent (5%) and up to and including ten percent (10%), of homes sampled" instead of the proposed language.

RESPONSE AND EXPLANATION OF CHANGE: The commission recognizes that this was a technical correction made to the federal requirements after the Proposed Rule was developed. The commission agreed with this revision to clarify the requirement and is modifying the language as suggested.

COMMENT: The U.S. Environmental Protection Agency commented that in Appendix A the maximum contaminant level (MCL) statement for #1, Total Coliform Bacteria needs to be expanded to read, "(systems that collect 40 or more samples per month) 5% of monthly samples are positive, (systems that collect fewer than 40) 1 positive sample."
RESPONSE AND EXPLANATION OF CHANGE: The commission recognizes that this was a technical correction made to the federal requirements after the Proposed Rule was developed. The commission agrees that the MCL definition must be expanded to account for the different method of calculating the MCL based on the number of coliform samples collected each month. The language is modified to accurately describe the MCL in each case.

COMMENT: The U.S. Environmental Protection Agency commented that in Appendix A the maximum contaminant level goal (MCLG) in Consumer Confidence Report units for #73, total trihalomethanes (TTHMs), should be "n/a" instead of "0" and that a corresponding correction should be made in Appendix B.
RESPONSE AND EXPLANATION OF CHANGE: The commission recognizes that this was a technical correction made to the federal requirements after the Proposed Rule was developed. The commission is changing the MCLG to "n/a" for TTHMs in both Appendix A and Appendix B.

COMMENT: The U.S. Environmental Protection Agency commented that leaching from PVC pipes is incorrectly identified in the list of "Major sources in drinking water column" in Appendix B to 10 CSR 60-8.030 for #68 Tetrachloroethylene.
RESPONSE AND EXPLANATION OF CHANGE: The commission recognizes that this was a technical correction made to the federal requirements after the Proposed Rule was developed. The commission agrees that the source description should be changed and is deleting the language as recommended.

Changes are made in subsection (1)(E); subsection (3)(D); Appendix A to 10 CSR 60-8.030 numbers 1 and 73; Appendix B to 10 CSR 60-8.030 numbers 1, 68, and 73.

10 CSR 60-8.030 Consumer Confidence Reports

(1) Applicability, Definitions, and General Requirements.

(E) A community water system that sells water to another community water system must deliver to the purchasing water system the information required in subsection (2)(B), and any information required in subsections (2)(D) through (2)(G) of this rule for monitoring conducted at the source or entrypoint to the distribution system. The required information from the seller must be provided no later than April 1 annually or on a date mutually agreed upon by the seller and the purchaser that is documented in writing and signed by both parties.

(3) Required Additional Health Information.

(D) Systems which detect lead above the action level in more than five percent (5%), and up to and including ten percent (10%), of homes sampled:

1. Must include a short informational statement about the special impact of lead on children using language such as: "Infants and young children are typically more vulnerable to lead in drinking water than the general population. It is possible that lead levels at your home may be higher than at other homes in the community as a result of materials used in your home's plumbing. If you are concerned about elevated lead levels in your home's water, you may wish to have your water tested and flush your tap for 30 seconds to 2 minutes before using tap water. Additional information is available from the Safe Drinking Water Hotline (800-426-4791)."

2. May write its own educational statement, but only in consultation with the department.

Appendix A to 10 CSR 60-8.030—Converting MCL Compliance Values for Consumer Confidence Reports

Key

AL = Action Level
MCL = Maximum Contaminant Level
MCLG = Maximum Contaminant Level Goal
MFL = million fibers per liter
mrem/year = millirems per year (a measure of radiation absorbed by the body)
NTU = Nephelometric Turbidity Units
pCi/l = picocuries per liter (a measure of radioactivity)
ppm = parts per million, or milligrams per liter (mg/l)
ppb = parts per billion, or micrograms per liter (μg/l)
ppt = parts per trillion, or nanograms per liter
ppq = parts per quadrillion, or picograms per liter
TT = Treatment Technique

Contaminant	MCL in compliance units (mg/l)	multiply by . . .	MCL in CCR units	MCLG in CCR units
Microbiological Contaminants				
1. Total Coliform Bacteria			(Systems that collect 40 or more samples per month) ≥5% of monthly samples are positive; (systems that collect fewer than 40 samples per month) 1 positive monthly sample.	0
2. Fecal coliform and E. coli			A routine sample and a repeat sample are total coliform positive, and one is also fecal coliform or E. coli positive.	0
3. Turbidity			TT (NTU)	n/a
Radioactive Contaminants				
4. Beta/photon emitters	4 mrem/yr		4 mrem/yr	0
5. Alpha emitters	15 pCi/l		15 pCi/l	0
6. Combined radium	5 pCi/l		5 pCi/l	0
Inorganic Contaminants				
7. Antimony	.006	1000	6 ppb	6
8. Arsenic	.05	1000	50 ppb	n/a
9. Asbestos	7 MFL		7 MFL	7
10. Barium	2		2 ppm	2
11. Beryllium	.004	1000	4 ppb	4
12. Cadmium	.005	1000	5 ppb	5
13. Chromium	.1	1000	100 ppb	100
14. Copper	AL=1.3		AL=1.3 ppm	1.3
15. Cyanide	.2	1000	200 ppb	200
16. Fluoride	4		4 ppm	4
17. Lead	AL=.015	1000	AL=15 ppb	0
18. Mercury (inorganic)	.002	1000	2 ppb	2
19. Nitrate (as Nitrogen)	10		10 ppm	10
20. Nitrite (as Nitrogen)	1		1 ppm	1
21. Selenium	.05	1000	50 ppb	50
22. Thallium	.002	1000	2 ppb	0.5

Synthetic Organic Contaminants including Pesticides and Herbicides				
23. 2,4-D	.07	1000	70 ppb	70
24. 2,4,5-TP [Silvex]	.05	1000	50 ppb	50
25. Acrylamide			TT	0
26. Alachlor	.002	1000	2 ppb	0
27. Atrazine	.003	1000	3 ppb	3
28. Benzo(a)pyrene [PAH]	.0002	1,000,000	200 ppt	0
29. Carbofuran	.04	1000	40 ppb	40
30. Chlordane	.002	1000	2 ppb	0
31. Dalapon	.2	1000	200 ppb	200
32. Di(2-ethylhexyl)adipate	.4	1000	400 ppb	400
33. Di(2-ethylhexyl)phthalate	.006	1000	6 ppb	0
34. Dibromochloropropane	.0002	1,000,000	200 ppt	0
35. Dinoseb	.007	1000	7 ppb	7
36. Diquat	.02	1000	20 ppb	20
37. Dioxin [2,3,7,8-TCDD]	.00000003	1,000,000,000	30 ppq	0
38. Endothall	.1	1000	100 ppb	100
39. Endrin	.002	1000	2 ppb	2
40. Epichlorohydrin			TT	0
41. Ethylene dibromide	.00005	1,000,000	50 ppt	0
42. Glyphosate	.7	1000	700 ppb	700
43. Heptachlor	.0004	1,000,000	400 ppt	0
44. Heptachlor epoxide	.0002	1,000,000	200 ppt	0
45. Hexachlorobenzene	.001	1000	1 ppb	0
46. Hexachloro-cyclopentadiene	.05	1000	50 ppb	50
47. Lindane	.0002	1,000,000	200 ppt	200
48. Methoxychlor	.04	1000	40 ppb	40
49. Oxamyl [Vydate]	.2	1000	200 ppb	200
50. PCBs [Polychlorinated biphenyls]	.0005	1,000,000	500 ppt	0
51. Pentachlorophenol	.001	1000	1 ppb	0
52. Picloram	.5	1000	500 ppb	500
53. Simazine	.004	1000	4 ppb	4
54. Toxaphene	.003	1000	3 ppb	0
Volatile Organic Contaminants				
55. Benzene	.005	1000	5 ppb	0
56. Carbon tetrachloride	.005	1000	5 ppb	0
57. Chlorobenzene	.1	1000	100 ppb	100
58. o-Dichlorobenzene	.6	1000	600 ppb	600
59. p-Dichlorobenzene	.075	1000	75 ppb	75
60. 1,2-Dichloroethane	.005	1000	5 ppb	0
61. 1,1-Dichloroethylene	.007	1000	7 ppb	7
62. cis-1,2-Dichloroethylene	.07	1000	70 ppb	70
63. trans-1,2-Dichloroethylene	.1	1000	100 ppb	100
64. Dichloromethane	.005	1000	5 ppb	0
65. 1,2-Dichloropropane	.005	1000	5 ppb	0
66. Ethylbenzene	.7	1000	700 ppb	700
67. Styrene	.1	1000	100 ppb	100
68. Tetrachloroethylene	.005	1000	5 ppb	0
69. 1,2,4-Trichlorobenzene	.07	1000	70 ppb	70
70. 1,1,1-Trichloroethane	.2	1000	200 ppb	200
71. 1,1,2-Trichloroethane	.005	1000	5 ppb	3
72. Trichloroethylene	.005	1000	5 ppb	0

73. TTHMs [Total trihalomethanes]	.10	1000	100 ppb	n/a
74. Toluene	1		1 ppm	1
75. Vinyl Chloride	.002	1000	2 ppb	0
76. Xylenes	10		10 ppm	10

Appendix B to 10 CSR 60-8.030—Regulated Contaminants

Key

AL = Action Level
MCL = Maximum Contaminant Level
MCLG = Maximum Contaminant Level Goal
MFL = million fibers per liter
mrem/year = millirems per year (a measure of radiation absorbed by the body)
NTU = Nephelometric Turbidity Units
pCi/l = picocuries per liter (a measure of radioactivity)
ppm = parts per million, or milligrams per liter (mg/l)
ppb = parts per billion, or micrograms per liter (μg/l)
ppt = parts per trillion, or nanograms per liter
ppq = parts per quadrillion, or picograms per liter
TT = Treatment Technique

Contaminant (units)	MCLG	MCL	Major sources in drinking water
Microbiological Contaminants			
1. Total Coliform Bacteria	0	(Systems that collect 40 or more samples per month) ≥5% of monthly samples are positive; (systems that collect fewer than 40 samples per month) 1 positive monthly sample.	Naturally present in the environment.
2. Fecal coliform and *E. coli*	0	A routine sample and a repeat sample are total coliform positive, and one is also fecal coliform or *E. coli* positive.	Human and animal fecal waste.
3. Turbidity	n/a	TT	Soil runoff.
Radioactive Contaminants			
4. Beta/photon emitters (mrem/yr)	0	4	Decay of natural and man-made deposits.
5. Alpha emitters (pCi/l)	0	15	Erosion of natural deposits.
6. Combined radium (pCi/l)	0	5	Erosion of natural deposits.
Inorganic Contaminants			
7. Antimony (ppb)	6	6	Discharge from petroleum refineries; fire retardants; ceramics; electronics; solder.
8. Arsenic (ppb)	n/a	50	Erosion of natural deposits; Runoff from orchards; Runoff from glass and electronics production wastes.
9. Asbestos (MFL)	7	7	Decay of asbestos cement water mains; Erosion of natural deposits.

10. Barium (ppm)	2	2	Discharge of drilling wastes; Discharge from metal refineries; Erosion of natural deposits.
11. Beryllium (ppb)	4	4	Discharge from metal refineries and coal-burning factories; Discharge from electrical, aerospace, and defense industries.
12. Cadmium (ppb)	5	5	Corrosion of galvanized pipes; Erosion of natural deposits; Discharge from metal refineries; runoff from waste batteries and paints.
13. Chromium (ppb)	100	100	Discharge from steel and pulp mills; Erosion of natural deposits.
14. Copper (ppm)	1.3	AL=1.3	Corrosion of household plumbing systems; Erosion of natural deposits; Leaching from wood preservatives.
15. Cyanide (ppb)	200	200	Discharge from steel/metal factories; Discharge from plastic and fertilizer factories.
16. Fluoride (ppm)	4	4	Erosion of natural deposits; Water additive which promotes strong teeth; Discharge from fertilizer and aluminum factories.
17. Lead (ppb)	0	AL=15	Corrosion of household plumbing systems; Erosion of natural deposits.
18. Mercury [inorganic] (ppb)	2	2	Erosion of natural deposits; Discharge from refineries and factories; Runoff from landfills; Runoff from cropland.
19. Nitrate [as Nitrogen] (ppm)	10	10	Runoff from fertilizer use; Leaching from septic tanks, sewage; Erosion of natural deposits.
20. Nitrite [as Nitrogen] (ppm)	1	1	Runoff from fertilizer use; Leaching from septic tanks, sewage; Erosion of natural deposits.
21. Selenium (ppb)	50	50	Discharge from petroleum and metal refineries; Erosion of natural deposits; Discharge from mines.
22. Thallium (ppb)	0.5	2	Leaching from ore-processing sites; Discharge from electronics, glass, and drug factories.
Synthetic Organic Contaminants including Pesticides and Herbicides			
23. 2,4-D (ppb)	70	70	Runoff from herbicide used on row crops.
24. 2,4,5-TP [Silvex] (ppb)	50	50	Residue of banned herbicide.
25. Acrylamide	0	TT	Added to water during sewage/wastewater treatment.
26. Alachlor (ppb)	0	2	Runoff from herbicide used on row crops.
27. Atrazine (ppb)	3	3	Runoff from herbicide used on row crops.
28. Benzo(a)pyrene [PAH] (nanograms/l)	0	200	Leaching from linings of water storage tanks and distribution lines.
29. Carbofuran (ppb)	40	40	Leaching of soil fumigant used on rice and alfalfa.
30. Chlordane (ppb)	0	2	Residue of banned termiticide.
31. Dalapon (ppb)	200	200	Runoff from herbicide used on rights of way.
32. Di(2-ethylhexyl)adipate (ppb)	400	400	Discharge from chemical factories.
33. Di(2-ethylhexyl)phthalate (ppb)	0	6	Discharge from rubber and chemical factories.
34. Dibromochloropropane (ppt)	0	200	Runoff/leaching from soil fumigant used on soybeans, cotton, pineapples, and orchards.
35. Dinoseb (ppb)	7	7	Runoff from herbicide used on soybeans and vegetables.

36. Diquat (ppb)	20	20	Runoff from herbicide use.
37. Dioxin [2,3,7,8-TCDD] (ppq)	0	30	Emissions from waste incineration and other combustion; Discharge from chemical factories.
38. Endothall (ppb)	100	100	Runoff from herbicide use.
39. Endrin (ppb)	2	2	Residue of banned insecticide.
40. Epichlorohydrin	0	TT	Discharge from industrial chemical factories; An impurity of some water treatment chemicals.
41. Ethylene dibromide (ppt)	0	50	Discharge from petroleum refineries.
42. Glyphosate (ppb)	700	700	Runoff from herbicide use.
43. Heptachlor (ppt)	0	400	Residue of banned termiticide.
44. Heptachlor epoxide (ppt)	0	200	Breakdown of heptachlor.
45. Hexachlorobenzene (ppb)	0	1	Discharge from metal refineries and agricultural chemical factories.
46. Hexachlorocyclopentadiene (ppb)	50	50	Discharge from chemical factories.
47. Lindane (ppt)	200	200	Runoff/leaching from insecticide used on cattle, lumber, gardens.
48. Methoxychlor (ppb)	40	40	Runoff/leaching from insecticide used on fruits, vegetables, alfalfa, and livestock.
49. Oxamyl [Vydate](ppb)	200	200	Runoff/leaching from insecticide used on apples, potatoes and tomatoes.
50. PCBs [Polychlorinated biphenyls] (ppt)	0	500	Runoff from landfills; Discharge of waste chemicals.
51. Pentachlorophenol (ppb)	0	1	Discharge from wood preserving factories.
52. Picloram (ppb)	500	500	Herbicide runoff.
53. Simazine (ppb)	4	4	Herbicide runoff.
54. Toxaphene (ppb)	0	3	Runoff/leaching from insecticide used on cotton and cattle.
Volatile Organic Contaminants			
55. Benzene (ppb)	0	5	Discharge from factories; Leaching from gas storage tanks and landfills.
56. Carbon tetrachloride (ppb)	0	5	Discharge from chemical plants and other industrial activities.
57. Chlorobenzene (ppb)	100	100	Discharge from chemical and agricultural chemical factories.
58. o-Dichlorobenzene (ppb)	600	600	Discharge from industrial chemical factories.
59. p-Dichlorobenzene (ppb)	75	75	Discharge from industrial chemical factories.
60. 1,2-Dichloroethane (ppb)	0	5	Discharge from industrial chemical factories.
61. 1,1-Dichloroethylene (ppb)	7	7	Discharge from industrial chemical factories.
62. cis-1,2-Dichloroethylene (ppb)	70	70	Discharge from industrial chemical factories.
63. trans-1,2-Dichloroethylene (ppb)	100	100	Discharge from industrial chemical factories.
64. Dichloromethane (ppb)	0	5	Discharge from pharmaceutical and chemical factories.
65. 1,2-Dichloropropane (ppb)	0	5	Discharge from industrial chemical factories.
66. Ethylbenzene (ppb)	700	700	Discharge from petroleum refineries.
67. Styrene (ppb)	100	100	Discharge from rubber and plastic factories; Leaching from landfills.
68. Tetrachloroethylene (ppb)	0	5	Discharge from factories and dry cleaners.

69. 1,2,4-Trichlorobenzene (ppb)	70	70	Discharge from textile-finishing factories.
70. 1,1,1-Trichloroethane (ppb)	200	200	Discharge from metal degreasing sites and other factories.
71. 1,1,2-Trichloroethane (ppb)	3	5	Discharge from industrial chemical factories.
72. Trichloroethylene (ppb)	0	5	Discharge from metal degreasing sites and other factories.
73. TTHMs [Total trihalomethanes] (ppb)	n/a	100	By-product of drinking water chlorination.
74. Toluene (ppm)	1	1	Discharge from petroleum factories.
75. Vinyl Chloride (ppb)	0	2	Leaching from PVC piping; Discharge from plastics factories.
76. Xylenes (ppm)	10	10	Discharge from petroleum factories; Discharge from chemical factories.

Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 70—Division of Liquor Control
Chapter 2—Rules and Regulations

ORDER OF RULEMAKING

By the authority vested in the supervisor of the Division of Liquor Control under section 311.660, RSMo 1994, the supervisor amends a rule as follows:

11 CSR 70-2.190 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2390–2391). A change has been made in the text of the proposed amendment to correct an error in the paragraph structure. This proposed amendment becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS AND EXPLANATION OF CHANGE: The Supervisor of Liquor Control received two favorable letters of comment on this proposed amendment. Paragraph 3. was corrected and reprinted to reflect subsection (2)(E), instead of paragraph (2)(E)2., of the proposed amendment.

COMMENT: SJL Beverage Company, which has five licensed wholesale locations in Missouri, submitted a letter in support of the proposed amendment, stating, "This is one of those rare situations where there is no downside effect to consider. It would be purely positive for us."
RESPONSE: The Supervisor agrees with the comments and appreciates the input from industry representatives.

COMMENT: Paramount Liquor Company, which has nine licensed wholesale locations in Missouri, submitted a letter of support and stated the proposed amendment will save time and money.
RESPONSE: The Supervisor agrees with the comments and appreciates the input from industry representatives.

11 CSR 70-2.190 Unlawful Discrimination and Price Scheduling

(2) Pricing Rules to Prohibit Discrimination.

(E) Case Size. For the purpose of this regulation, a case of intoxicating liquor or a case of wine is declared to be a cardboard, wooden or other container, containing bottles of equal size filled with intoxicating liquor or wine of the same brand, age and proof. The following table depicts the number of bottles considered to be a case of various bottle sizes for both the English and metric systems of measure, for price scheduling purposes:

Size of Bottle	Number of Bottles per Case
Less than 6.3 oz	48, 60, 96, 120, 144, 192 or 240
8 oz up to, but not including, 10 oz	48
10 oz up to, but not including, 21 oz	24
21 oz up to, but not including, 43 oz	12
43 oz up to, but not including, 85 oz	6
85 oz up to and including 128 oz	3, 4 or 6

1. The Universal Coding of Alcoholic Beverages for Products by container size shall be used to code the bottle size. An item is declared to be either a bottle or a case of intoxicating liquor or wine scheduled as required.

2. All sizes less than one-half (1/2) pint or eight (8) ounces under the English system of measure shall be defined as miniatures to be sold to airlines and railroads. Under the metric system of measure, miniatures to be sold to airlines and railroads are defined as fifty (50) milliliters (1.7 ounces) for spirituous liquors and one hundred (100) milliliters (3.4 ounces) for vinous liquors. Case sizes for miniatures shall be 240, 192, 144, 120, 96, 60 and 48 bottles. Miniatures shall be sold in only one (1) case size for each bottle size sold.

3. If an intoxicating liquor or wine product is packaged by the manufacturer in a bottle quantity for that bottle size exceeding one but either more or less than the case quantity for the bottle size listed in subsection (2)(E), a wholesaler may sell that package for a total price that reflects the same per bottle price as the per bottle price in the posted case price, if the wholesaler's invoice specifies the quantity in the package.

Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 111—Sales/Use Tax—Machinery and Equipment Exemptions

ORDER OF RULEMAKING

By the authority vested in the director of revenue under section 144.270, RSMo 1994, the director adopts a rule as follows:

12 CSR 10-111.010 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2392–2394). No changes have been made in the text of the proposed rule, however, the changed chapter title and rule title are reprinted here. This proposed rule becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS AND EXPLANATION OF CHANGE: The department received two letters of comment on this proposed rule. For purposes of clarity, the Chapter and Title of the regulation are being changed.

COMMENT: One commenter recommended that the definition of machinery and equipment be changed to "property that has a degree of permanence…" rather than using the outdated term "device."
RESPONSE: The department has considered this comment and determined the terminology to be vague, and has decided to make no change in the rule. The term device is supported by case law and is a more precise term.

COMMENT: One commenter suggests making these subsections the same. Section (3)(E) includes producers under the replacement exemption, but section (3)(B) indicates that the same producers are ineligible for the new or expanded plant exemption.
RESPONSE: The General Assembly added "Producing" to 144.030.2(4), RSMo, but not 144.030.2(5), RSMo. As an example, The AHC in Tension Envelope addressed the fact that 144.030.2(5), RSMo, said "in the state" and 144.030.2(4), RSMo, contained no similar limitation. As a matter of statutory construction, the difference has an intended meaning. The department does not have the authority to issue regulations that conflict with the statutes, and therefore has decided to make no change in the rule.

COMMENT: One comment was to reword Example (4)(J), to more closely relate to the actual wording of section 144.010.1(14), RSMo.
RESPONSE: The point referenced by the commenter is addressed in Example (4)(P). This particular example is addressing the IBM (DST) decision only. The suggested language does not completely address the 144.010.1(14), RSMo, definitional provision because we require tax to actually have been paid by the purchaser in the other state. This is the essence of example (4)(P). The department has decided to make no change in the rule.

COMMENT: The commenter suggests adding annotations for the following cases: *Lander Bookbinding Corp. v. Director of Revenue*, AHC 4/24/96; *Walsworth Publishing Co. v. Director of Revenue*, Missouri Supreme Court No. 78769, 12/29/96.
RESPONSE: The cases referenced are good suggestions, and will be added to the rule. The department filed this rule with annotations. The department understands that the secretary of state's Administrative Rules Division does not publish these annotations in the *Missouri Register*, but they will appear in the *Code of State Regulations*.

Chapter 111—Sales/Use Tax—Machinery and Equipment Exemptions

12 CSR 10-111.010 Manufacturing Machinery and Equipment Exemptions

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—Division of Medical Services
Chapter 10—Nursing Home Program

ORDER OF RULEMAKING

By the authority vested in the director of the Division of Medical Services under sections 208.153, 208.159, and 208.201, RSMo 1994, the director hereby amends a rule as follows:

13 CSR 70-10.015 Prospective Reimbursement Plan for Nursing Facility Services **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2401–2403). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—Division of Medical Services
Chapter 10—Nursing Home Program

ORDER OF RULEMAKING

By the authority vested in the director of the Division of Medical Services under section 208.153, RSMo 1994, the director hereby amends a rule as follows:

13 CSR 70-10.080 Prospective Reimbursement Plan for HIV Nursing Facility Services **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2404–2405). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—Division of Medical Services
Chapter 10—Nursing Home Program

ORDER OF RULEMAKING

By the authority vested in the director of the Division of Medical Services under sections 198.401, 198.403, 198.406, 198.409, 198.412, 198.416, 198.418, 198.421, 198.424, 198.427, 198.431, 198.433, 198.436, RSMo Supp. 1999 and 208.201, RSMo 1994, the director hereby amends a rule as follows:

13 CSR 70-10.110 Nursing Facility Reimbursement Allowance **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2406–2407). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

This section may contain notice of hearings, correction notices, public information notices, rule action notices, statements of actual costs and other items required to be published in the *Missouri Register* by law.

Title 19—DEPARTMENT OF HEALTH
Division 60—Missouri Health Facilities Review Committee
Chapter 50—Certificate of Need Program

APPLICATION REVIEW SCHEDULE

DATE FILED:
APPLICATION PROJECT NO. &
NAME/COST & DESCRIPTION/
CITY & COUNTY

The Missouri Health Facilities Review Committee has initiated review of the applications listed below. These applications are available for public inspection at the address shown below.

11/18/99

#2906 RS: Branson Assisted Living Center, $2,716,000, Relocate 30 residential care facility II beds
Branson (Taney County)

11/24/99

#2918 NP: Meramec Nursing Center
$1, Long term care bed expansion of 16 skilled nursing facility beds
Sullivan (Crawford County)

#2917 NP: Community Care Center of Lemay, $396,001
Long term care bed expansion of 26 skilled nursing facility beds
St. Louis (St. Louis County)

#2916 NP: Seneca House
$1, Long term care bed expansion of 4 skilled nursing facility beds
Seneca (Newton County)

12/20/99

#2933 NS: Vintage Villa Nursing Center
$2,295,000, Replace 60-bed skilled nursing facility
Dexter (Stoddard County)

12/27/99

#2934 NP: Crown Care Center
$279,801, Long term care bed expansion of 30 skilled nursing facility beds
Harrisonville (Cass County)

#2921 RS: St. Francois Residential Care
$1,450,000, Replace 27-bed intermediate care facility
Farmington (St. Francois County)

#2932 NS: Autumn Oaks Care & Rehabilitation Center
$3,850,000, Replace 120-bed skilled nursing facility
Springfield (Greene County)

#2912 NP: Sylvia G. Thompson Center, Inc., $1,470,970
Long term care bed expansion of 43 skilled nursing facility beds
Sedalia (Pettis County)

12/28/99

#2926 NS: Frene Valley Healthcare South
$48,000, Long term care bed expansion of 6 skilled nursing facility beds
Owensville (Crawford County)

#2881 NP: Delmar Gardens North
$3,694,000, Long term care bed expansion of 60 skilled nursing facility beds
St. Louis (St. Louis County)

Any person wishing to request a public hearing for the purpose of commenting on any of these applications must submit a written request to this effect which must be received at the address listed below by January 28, 2000. All written requests and comments should be sent to:

Chairman
Missouri Health Facilities Review Committee
c/o Certificate of Need Program
915 G Leslie Boulevard
Jefferson City, MO 65101

For additional information contact
Donna Schuessler, 573-751-6403.

OFFICE OF ADMINISTRATION
Division of Purchasing

BID OPENINGS

Sealed Bids in one (1) copy will be received by the Division of Purchasing, Room 580, Truman Building, P.O. Box 809, Jefferson City, MO 65102, telephone (573) 751-2387 at 2:00 p.m. on dates specified below for various agencies throughout Missouri. Bids are available to download via our homepage: http://www.state.mo.us/oa/purch/purch.htm. Prospective bidders may receive specifications upon request.

B3Z00120 Trash Collection Services 2/2/00;
B1Z00232 Truck with Aluminum Bed 2/3/00;
B3Z00111 Services; Legal 2/3/00;
B3Z00116 Janitorial Services-Jefferson City, MO 2/4/00;
B1Z00227 Dairy Product: Cheese 2/7/00;
B1Z00236 Electrical Supplies: Meramec Sate Park 2/7/00;
B1Z00237 Electrical Supplies: Sam A. Baker State Park 2/7/00;
B1Z00238 Utility Vehicles 2/7/00;
B3Z00076 Funding, Research & Administration Services 2/7/00;
B1Z00235 Paper: Carbonless 2/8/00;
B2Z00058 Micrographic Supplies-Archival File Folders 2/10/00;
B3Z00040 Exhibits; Design, Construct & Install 2/14/00;
B1Z00230 Building Storage, Chemical/Hazardous 2/15/00;
B1Z00240 Office Supplies-Kansas City/Western MO 2/15/00;
B3Z00105 Medical Transcription Services 2/15/00;
B3Z00091 Childcare Program 2/16/00;
B1Z00228 Video/Audio Surveillance System 2/16/00;
B1Z00244 Electrical Supplies-Sedalia Area 2/16/00;
B3Z00100 Crisis Nursery Services 2/18/00;
B003056 Training Services/Management Training Programs 3/6/00;
B3Z00094 International Marketing-Missouri Tourism 3/6/00.

It is the intent of the state of Missouri, Division of Purchasing to purchase the following as a single feasible source without competitive bids. If suppliers exist other than the one identified, contact (573) 751-2387 immediately.

1.) Breakfast-In-Bed Function, supplied by the Opryland Hotel and Convention Center.
2.) Higher Education Institution Apple Macintosh Equipment, supplied by apple Computer, Inc.
Software Upgrade and Maintenance, supplied by Chicago-Soft, LTD.
Security Service Maintenance, supplied by ADT Security.

Joyce Murphy, CPPO,
Director of Purchasing

Rule Changes Since Update to Code of State Regulations

This cumulative table gives you the latest status of rules. It contains citations of rulemakings adopted or proposed after deadline for the monthly Update Service to the *Code of State Regulations*, citations are to volume and page number in the *Missouri Register*, except for material in this issue. The first number in the table cite refers to the volume number or the publication year—23 (1998), 24 (1999) and 25 (2000). MoReg refers to *Missouri Register* and the numbers refer to a specific *Register* page, R indicates a rescission, W indicates a withdrawal, S indicates a statement of actual cost, T indicates an order terminating a rule, N.A. indicates not applicable and RUC indicates a rule under consideration.

Rule Number	Agency	Emergency	Proposed	Order	In Addition
	OFFICE OF ADMINISTRATION				
1 CSR 10	State Officials' Salary Compensation Schedule				23 MoReg 2473 24 MoReg 2535
1 CSR 10-15.010	Commissioner of Administration	25 MoReg 143	24 MoReg 2577	This Issue	
1 CSR 20-5.010	Personnel Advisory Board		24 MoReg 2578		
1 CSR 20-5.015	Personnel Advisory Board		24 MoReg 2578		
1 CSR 20-5.020	Personnel Advisory Board		24 MoReg 2579		
1 CSR 20-5.025	Personnel Advisory Board		24 MoReg 2580		
	DEPARTMENT OF AGRICULTURE				
2 CSR 10-5.005	Market Development	24 MoReg 2269			
2 CSR 10-5.010	Market Development		23 MoReg 2676		
2 CSR 60-1.010	Grain Inspection and Warehousing		24 MoReg 2755		
2 CSR 60-4.011	Grain Inspection and Warehousing		24 MoReg 2755		
2 CSR 60-4.040	Grain Inspection and Warehousing		24 MoReg 2755R		
2 CSR 60-4.070	Grain Inspection and Warehousing		24 MoReg 2756		
2 CSR 60-4.110	Grain Inspection and Warehousing		24 MoReg 2756		
2 CSR 60-4.140	Grain Inspection and Warehousing		24 MoReg 2757		
2 CSR 60-4.150	Grain Inspection and Warehousing		24 MoReg 2758		
2 CSR 60-4.180	Grain Inspection and Warehousing		24 MoReg 2758		
2 CSR 60-5.010	Grain Inspection and Warehousing		24 MoReg 2759		
2 CSR 60-5.020	Grain Inspection and Warehousing		24 MoReg 2759R 24 MoReg 2759		
2 CSR 60-5.030	Grain Inspection and Warehousing		24 MoReg 2760R		
2 CSR 60-5.040	Grain Inspection and Warehousing		24 MoReg 2760		
2 CSR 60-5.050	Grain Inspection and Warehousing		24 MoReg 2760		
2 CSR 60-5.070	Grain Inspection and Warehousing		24 MoReg 2761		
2 CSR 60-5.080	Grain Inspection and Warehousing		24 MoReg 2761		
2 CSR 60-5.100	Grain Inspection and Warehousing		24 MoReg 2762		
2 CSR 60-5.120	Grain Inspection and Warehousing		24 MoReg 2763		
2 CSR 80-2.180	State Milk Board	24 MoReg 2675	24 MoReg 2764		
	DEPARTMENT OF CONSERVATION				
3 CSR 10-1.010	Conservation Commission		24 MoReg 2764		
3 CSR 10-4.115	Conservation Commission		24 MoReg 2581 This Issue	25 MoReg 50	
3 CSR 10-4.116	Conservation Commission		24 MoReg 2582	25 MoReg 50	
3 CSR 10-4.125	Conservation Commission		24 MoReg 2583	25 MoReg 50	
3 CSR 10-5.205	Conservation Commission		24 MoReg 2583	25 MoReg 50	
3 CSR 10-5.210	Conservation Commission		24 MoReg 2586	25 MoReg 51	
3 CSR 10-5.215	Conservation Commission		24 MoReg 2586	25 MoReg 51	
3 CSR 10-6.405	Conservation Commission		24 MoReg 2586 This Issue	25 MoReg 51	
3 CSR 10-7.405	Conservation Commission		24 MoReg 2587	25 MoReg 51	
3 CSR 10-7.440	Conservation Commission		N.A.	This Issue	
3 CSR 10-7.455	Conservation Commission				24 MoReg 2989
3 CSR 10-8.505	Conservation Commission		24 MoReg 2587	24 MoReg 51	
	DEPARTMENT OF ECONOMIC DEVELOPMENT				
4 CSR 10-2.160	Missouri State Board of Accountancy		24 MoReg 2625		
4 CSR 40-1.021	Office of Athletics	21 MoReg 2680			
4 CSR 40-5.070	Office of Athletics	21 MoReg 1963			
4 CSR 70-2.040	State Board of Chiropractic Examiners		24 MoReg 2201	25 MoReg 51	
4 CSR 70-2.050	State Board of Chiropractic Examiners		24 MoReg 2201	25 MoReg 52	
4 CSR 70-2.070	State Board of Chiropractic Examiners		24 MoReg 2202	25 MoReg 52	
4 CSR 90-13.020	State Board of Cosmetology		23 MoReg 1952		
4 CSR 100	Division of Credit Unions				24 MoReg 2647 24 MoReg 2721 25 MoReg 116 25 MoReg 225 25 MoReg 225
4 CSR 100-2.190	Division of Credit Unions		This Issue		
4 CSR 105-1.010	Credit Union Commission		24 MoReg 1829	24 MoReg 2983	
4 CSR 105-2.010	Credit Union Commission	24 MoReg 1787	24 MoReg 1833	24 MoReg 2983	
4 CSR 105-3.010	Credit Union Commission	24 MoReg 1788	24 MoReg 1839	24 MoReg 2983	

Rule Number	Agency	Emergency	Proposed	Order	In Addition
4 CSR 105-3.020	Credit Union Commission	24 MoReg 1789	24 MoReg 1839	24 MoReg 2985	
4 CSR 105-3.030	Credit Union Commission	24 MoReg 1790	24 MoReg 1839	24 MoReg 2986	
4 CSR 120-2.060	Board of Embalmers and Funeral Directors		24 MoReg 2128	24 MoReg 2986	
4 CSR 120-2.100	Board of Embalmers and Funeral Directors		24 MoReg 2129	24 MoReg 2987	
			This Issue		
4 CSR 150-2.001	State Board of Registration for the Healing Arts		23 MoReg 2565		
4 CSR 150-2.065	State Board of Registration for the Healing Arts		23 MoReg 2566		
4 CSR 150-2.080	State Board of Registration for the Healing Arts		This Issue		
4 CSR 150-7.135	State Board of Registration for the Healing Arts		24 MoReg 2131	25 MoReg 211	
4 CSR 150-7.300	State Board of Registration for the Healing Arts		23 MoReg 2703		
4 CSR 150-7.310	State Board of Registration for the Healing Arts		23 MoReg 2711		
4 CSR 195-5.010	Workforce Development		24 MoReg 2314		
4 CSR 195-5.020	Workforce Development		24 MoReg 2315		
4 CSR 195-5.030	Workforce Development		24 MoReg 2318		
4 CSR 210-2.060	State Board of Optometry		22 MoReg 1443		
4 CSR 220-2.010	State Board of Pharmacy		24 MoReg 1841	24 MoReg 2837	
4 CSR 220-2.020	State Board of Pharmacy		24 MoReg 1841	24 MoReg 2837	
4 CSR 220-2.160	State Board of Pharmacy		24 MoReg 1842	24 MoReg 2837	
4 CSR 230-2.065	Board of Podiatric Medicine		24 MoReg 2202	25 MoReg 52	
4 CSR 235-1.015	State Committee of Psychologists		24 MoReg 2132	25 MoReg 52	
4 CSR 235-1.025	State Committee of Psychologists		24 MoReg 2132	25 MoReg 52	
4 CSR 235-1.026	State Committee of Psychologists		24 MoReg 2133	25 MoReg 52	
4 CSR 235-1.030	State Committee of Psychologists		24 MoReg 2134	25 MoReg 53	
4 CSR 235-1.031	State Committee of Psychologists		24 MoReg 2134	25 MoReg 53	
4 CSR 235-1.060	State Committee of Psychologists		24 MoReg 2134	25 MoReg 53	
4 CSR 235-1.063	State Committee of Psychologists		24 MoReg 2135	25 MoReg 53	
4 CSR 235-2.020	State Committee of Psychologists		24 MoReg 2135	25 MoReg 53	
4 CSR 235-2.040	State Committee of Psychologists		24 MoReg 2135	25 MoReg 53	
4 CSR 235-2.050	State Committee of Psychologists		24 MoReg 2137	25 MoReg 54	
4 CSR 235-2.060	State Committee of Psychologists		24 MoReg 2138	25 MoReg 54	
4 CSR 235-2.065	State Committee of Psychologists		24 MoReg 2139	25 MoReg 54	
4 CSR 235-2.070	State Committee of Psychologists		24 MoReg 2140	25 MoReg 54	
4 CSR 235-3.020	State Committee of Psychologists		24 MoReg 2140	25 MoReg 55	
4 CSR 235-4.030	State Committee of Psychologists		24 MoReg 2141	25 MoReg 55	
4 CSR 240-2.010	Public Service Commission		24 MoReg 2318R		
			24 MoReg 2318		
4 CSR 240-2.015	Public Service Commission		24 MoReg 2319		
4 CSR 240-2.020	Public Service Commission		24 MoReg 2142	24 MoReg 2838	
4 CSR 240-2.030	Public Service Commission		24 MoReg 2142	24 MoReg 2838	
4 CSR 240-2.040	Public Service Commission		24 MoReg 2320R		
			24 MoReg 2320		
4 CSR 240-2.050	Public Service Commission		24 MoReg 2320R		
			24 MoReg 2321		
4 CSR 240-2.060	Public Service Commission		24 MoReg 2321R		
			24 MoReg 2321		
4 CSR 240-2.065	Public Service Commission		24 MoReg 2324R		
			24 MoReg 2324		
4 CSR 240-2.070	Public Service Commission		24 MoReg 2325R		
			24 MoReg 2325		
4 CSR 240-2.075	Public Service Commission		24 MoReg 2326R		
			24 MoReg 2326		
4 CSR 240-2.080	Public Service Commission		24 MoReg 2327R		
			24 MoReg 2327		
4 CSR 240-2.085	Public Service Commission		24 MoReg 2328		
4 CSR 240-2.090	Public Service Commission		24 MoReg 2329R		
			24 MoReg 2329		
4 CSR 240-2.100	Public Service Commission		24 MoReg 2330R		
			24 MoReg 2330		
4 CSR 240-2.110	Public Service Commission		24 MoReg 2330R		
			24 MoReg 2331		
4 CSR 240-2.115	Public Service Commission		24 MoReg 2331R		
			24 MoReg 2332		
4 CSR 240-2.116	Public Service Commission		24 MoReg 2332R		
			24 MoReg 2332		
4 CSR 240-2.120	Public Service Commission		24 MoReg 2333R		
			24 MoReg 2333		
4 CSR 240-2.125	Public Service Commission		24 MoReg 2333R		
			24 MoReg 2333		
4 CSR 240-2.130	Public Service Commission		24 MoReg 2334R		
			24 MoReg 2334		
4 CSR 240-2.140	Public Service Commission		24 MoReg 2336R		
			24 MoReg 2336		
4 CSR 240-2.150	Public Service Commission		24 MoReg 2336R		
			24 MoReg 2336		
4 CSR 240-2.160	Public Service Commission		24 MoReg 2337R		
			24 MoReg 2337		
4 CSR 240-2.170	Public Service Commission		24 MoReg 2338R		
4 CSR 240-2.180	Public Service Commission		24 MoReg 2338R		
			24 MoReg 2338		
4 CSR 240-2.200	Public Service Commission		24 MoReg 2339R		
			24 MoReg 2339		
4 CSR 240-18.010	Public Service Commission		24 MoReg 2340	25 MoReg 211	
4 CSR 240-20.015	Public Service Commission		24 MoReg 1340	25 MoReg 55	

Rule Number	Agency	Emergency	Proposed	Order	In Addition
4 CSR 240-32.110	Public Service Commission		24 MoReg 2341		
4 CSR 240-32.120	Public Service Commission		24 MoReg 2344		
4 CSR 240-33.010	Public Service Commission		24 MoReg 2347R 24 MoReg 2347		
4 CSR 240-33.020	Public Service Commission		24 MoReg 2347R 24 MoReg 2348		
4 CSR 240-33.040	Public Service Commission		24 MoReg 2351R 24 MoReg 2351		
4 CSR 240-33.050	Public Service Commission		24 MoReg 2355R 24 MoReg 2355		
4 CSR 240-33.060	Public Service Commission		24 MoReg 2359R 24 MoReg 2359		
4 CSR 240-33.070	Public Service Commission		24 MoReg 2362R 24 MoReg 2362		
4 CSR 240-33.080	Public Service Commission		24 MoReg 2367R 24 MoReg 2367		
4 CSR 240-33.090	Public Service Commission		24 MoReg 2371R 24 MoReg 2371		
4 CSR 240-33.100	Public Service Commission		24 MoReg 2371R 24 MoReg 2372		
4 CSR 240-33.110	Public Service Commission		24 MoReg 2372R 24 MoReg 2372		
4 CSR 240-33.120	Public Service Commission		24 MoReg 2373		
4 CSR 240-33.130	Public Service Commission		24 MoReg 2376		
4 CSR 240-33.140	Public Service Commission		24 MoReg 2376		
4 CSR 240-33.150	Public Service Commission	24 MoReg 2747T			
4 CSR 240-40.015	Public Service Commission		24 MoReg 1346	25 MoReg 59	
4 CSR 240-40.016	Public Service Commission		24 MoReg 1352	25 MoReg 63	
4 CSR 240-80.015	Public Service Commission		24 MoReg 1359	25 MoReg 69	
4 CSR 255-1.040	Missouri Board for Respiratory Care		This Issue		
4 CSR 255-2.040	Missouri Board for Respiratory Care		This Issue		
4 CSR 255-2.050	Missouri Board for Respiratory Care		This Issue		
4 CSR 255-2.060	Missouri Board for Respiratory Care		This Issue		
4 CSR 255-3.010	Missouri Board for Respiratory Care		This Issue		
4 CSR 255-4.010	Missouri Board for Respiratory Care		This Issue		
4 CSR 263-3.140	Licensed Clinical Social Workers		24 MoReg 2143	24 MoReg 2987	
4 CSR 265-10.025	Division of Motor Carrier and Railroad Safety		24 MoReg 2203		
	DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION				
5 CSR 30-345.020	Division of School Services		24 MoReg 2627		
5 CSR 30-345.030	Division of School Services		24 MoReg 2628		
5 CSR 50-270.050	Division of Instruction		24 MoReg 877		
5 CSR 60-100.010	Vocational and Adult Education		N.A.	24 MoReg 2838	
5 CSR 60-120.010	Vocational and Adult Education		N.A.	24 MoReg 2841	
5 CSR 80-800.290	Urban and Teacher Education	24 MoReg 2123	24 MoReg 2143	25 MoReg 73	
	DEPARTMENT OF HIGHER EDUCATION				
6 CSR 10-2.100	Commissioner of Higher Education		24 MoReg 1650	24 MoReg 2843	
	DEPARTMENT OF TRANSPORTATION				
7 CSR 10-2.010	Highways and Transportation Commission		24 MoReg 1367R 24 MoReg 1367 24 MoReg 2919R 24 MoReg 2919	24 MoReg 2940R 24 MoReg 2940	
7 CSR 10-6.010	Highways and Transportation Commission		24 MoReg 765 24 MoReg 2377		
7 CSR 10-6.015	Highways and Transportation Commission		24 MoReg 766 24 MoReg 2378		
7 CSR 10-6.040	Highways and Transportation Commission		24 MoReg 767 24 MoReg 2379		
7 CSR 10-6.050	Highways and Transportation Commission		24 MoReg 768 24 MoReg 2381		
7 CSR 10-6.060	Highways and Transportation Commission		24 MoReg 769 24 MoReg 2381		
7 CSR 10-6.070	Highways and Transportation Commission		24 MoReg 770 24 MoReg 2382		
7 CSR 10-6.085	Highways and Transportation Commission		24 MoReg 773 24 MoReg 2385		
7 CSR 10-10.010	Highways and Transportation Commission	24 MoReg 2932	24 MoReg 2956		
7 CSR 10-10.040	Highways and Transportation Commission	24 MoReg 2933	24 MoReg 2957		
7 CSR 10-10.050	Highways and Transportation Commission	24 MoReg 2933	24 MoReg 2957		
7 CSR 10-10.070	Highways and Transportation Commission	24 MoReg 2934	24 MoReg 2958		
	DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS				
8 CSR 60-3.040	Commission on Human Rights	24 MoReg 2565 25 MoReg 144T	24 MoReg 2588	This IssueW	
	DEPARTMENT OF MENTAL HEALTH				
9 CSR 10-7.010	Director, Department of Mental Health				24 MoReg 2875RUC
9 CSR 10-7.020	Director, Department of Mental Health				24 MoReg 2877RUC
9 CSR 10-7.030	Director, Department of Mental Health				24 MoReg 2879RUC
9 CSR 10-7.040	Director, Department of Mental Health				24 MoReg 2881RUC

Rule Number	Agency	Emergency	Proposed	Order	In Addition
9 CSR 10-7.050	Director, Department of Mental Health				24 MoReg 2881RUC
9 CSR 10-7.060	Director, Department of Mental Health				24 MoReg 2883RUC
9 CSR 10-7.070	Director, Department of Mental Health				24 MoReg 2884RUC
9 CSR 10-7.080	Director, Department of Mental Health				24 MoReg 2885RUC
9 CSR 10-7.090	Director, Department of Mental Health				24 MoReg 2886RUC
9 CSR 10-7.100	Director, Department of Mental Health				24 MoReg 2887RUC
9 CSR 10-7.110	Director, Department of Mental Health				24 MoReg 2887RUC
9 CSR 10-7.120	Director, Department of Mental Health				24 MoReg 2890RUC
9 CSR 10-7.130	Director, Department of Mental Health				24 MoReg 2891RUC
9 CSR 25-4.040	Fiscal Management		24 MoReg 2386		
9 CSR 30-4.030	Certification Standards	24 MoReg 2191	24 MoReg 2215	25 MoReg 73	
9 CSR 30-4.034	Certification Standards	24 MoReg 2193	24 MoReg 2216	25 MoReg 74	
9 CSR 30-4.035	Certification Standards	24 MoReg 2194	24 MoReg 2217	25 MoReg 74	
9 CSR 30-4.039	Certification Standards	24 MoReg 2195	24 MoReg 2219	25 MoReg 74	
9 CSR 30-4.042	Certification Standards	24 MoReg 2197	24 MoReg 2220	25 MoReg 75	
9 CSR 30-4.043	Certification Standards	24 MoReg 2199	24 MoReg 2222	25 MoReg 75	
9 CSR 45-5.040	Mental Retardation and Developmental Disabilities		24 MoReg 2389		
	DEPARTMENT OF NATURAL RESOURCES				
10 CSR					24 MoReg 1693
10 CSR 10-2.010	Air Conservation Commission				24 MoReg 420
10 CSR 10-2.060	Air Conservation Commission		24 MoReg 2588R		
10 CSR 10-3.080	Air Conservation Commission		24 MoReg 2588R		
10 CSR 10-4.060	Air Conservation Commission		24 MoReg 2589R		
10 CSR 10-5.070	Air Conservation Commission		24 MoReg 2224		
10 CSR 10-5.090	Air Conservation Commission		24 MoReg 2589R		
10 CSR 10-5.295	Air Conservation Commission		24 MoReg 2001	25 MoReg 76	
10 CSR 10-5.380	Air Conservation Commission	24 MoReg 2935	25 MoReg 14		
10 CSR 10-5.390	Air Conservation Commission		This Issue		
10 CSR 10-5.490	Air Conservation Commission		24 MoReg 2680		
10 CSR 10-5.500	Air Conservation Commission		24 MoReg 2007	25 MoReg 81	
10 CSR 10-5.510	Air Conservation Commission		24 MoReg 2012	25 MoReg 82	
10 CSR 10-5.520	Air Conservation Commission		24 MoReg 2020	25 MoReg 92	
10 CSR 10-5.530	Air Conservation Commission		24 MoReg 2025	25 MoReg 98	
10 CSR 10-5.540	Air Conservation Commission		24 MoReg 2034	25 MoReg 101	
10 CSR 10-5.550	Air Conservation Commission		24 MoReg 2041	25 MoReg 109	
10 CSR 10-6.020	Air Conservation Commission		24 MoReg 2629		
10 CSR 10-6.065	Air Conservation Commission		24 MoReg 2630		
10 CSR 10-6.070	Air Conservation Commission		24 MoReg 2226		
10 CSR 10-6.075	Air Conservation Commission		24 MoReg 2226		
10 CSR 10-6.080	Air Conservation Commission		24 MoReg 2230		
10 CSR 10-6.170	Air Conservation Commission		22 MoReg 2129		
10 CSR 10-6.310	Air Conservation Commission		24 MoReg 2686		
10 CSR 20-3.010	Clean Water Commission		24 MoReg 1225R	This IssueR	
			24 MoReg 1225	This Issue	
10 CSR 20-4.023	Clean Water Commission		24 MoReg 1849	This Issue	
10 CSR 20-4.030	Clean Water Commission		24 MoReg 1849	This Issue	
10 CSR 20-4.041	Clean Water Commission		24 MoReg 1850	This Issue	
10 CSR 20-4.043	Clean Water Commission		24 MoReg 1852	This Issue	
10 CSR 20-4.061	Clean Water Commission		24 MoReg 1724	This Issue	
10 CSR 20-7.015	Clean Water Commission		This Issue		
10 CSR 20-10.012	Clean Water Commission		24 MoReg 1056	This Issue	
10 CSR 20-10.022	Clean Water Commission		24 MoReg 1056	This Issue	
10 CSR 20-10.068	Clean Water Commission		24 MoReg 1057	This IssueW	
10 CSR 20-10.071	Clean Water Commission		24 MoReg 1058	This Issue	
10 CSR 20-11.092	Clean Water Commission		24 MoReg 1058	This Issue	
10 CSR 20-12.010	Clean Water Commission		24 MoReg 1058R	This IssueR	
10 CSR 20-12.020	Clean Water Commission		24 MoReg 1059R	This IssueR	
10 CSR 20-12.025	Clean Water Commission		24 MoReg 1059R	This IssueR	
10 CSR 20-12.030	Clean Water Commission		24 MoReg 1059R	This IssueR	
10 CSR 20-12.040	Clean Water Commission		24 MoReg 1060R	This IssueR	
10 CSR 20-12.045	Clean Water Commission		24 MoReg 1060R	This IssueR	
10 CSR 20-12.050	Clean Water Commission		24 MoReg 1061R	This IssueR	
10 CSR 20-12.060	Clean Water Commission		24 MoReg 1061R	This IssueR	
10 CSR 20-12.061	Clean Water Commission		24 MoReg 1061R	This IssueR	
10 CSR 20-12.062	Clean Water Commission		24 MoReg 1062R	This IssueR	
10 CSR 20-12.070	Clean Water Commission		24 MoReg 1062R	This IssueR	
10 CSR 20-12.080	Clean Water Commission		24 MoReg 1062R	This IssueR	
10 CSR 20-13.080	Clean Water Commission		24 MoReg 1239R	This IssueR	
			24 MoReg 1239	This Issue	
10 CSR 45-1.010	Metallic Minerals		24 MoReg 2049		
10 CSR 45-2.010	Metallic Minerals		24 MoReg 2049		
10 CSR 45-3.010	Metallic Minerals		24 MoReg 1258R		
			24 MoReg 1258		
10 CSR 45-6.010	Metallic Minerals		24 MoReg 2049		
10 CSR 45-6.020	Metallic Minerals		24 MoReg 2049		
10 CSR 45-6.030	Metallic Minerals		24 MoReg 2050		
10 CSR 60-2.015	Public Drinking Water Program		25 MoReg 147		
10 CSR 60-3.010	Public Drinking Water Program	24 MoReg 2365	24 MoReg 1852	This Issue	
10 CSR 60-3.020	Public Drinking Water Program	24 MoReg 2567	24 MoReg 1854	This Issue	
10 CSR 60-3.030	Public Drinking Water Program	24 MoReg 2568	24 MoReg 1863	This Issue	
10 CSR 60-4.010	Public Drinking Water Program		25 MoReg 148		

Rule Number	Agency	Emergency	Proposed	Order	In Addition
10 CSR 60-4.050	Public Drinking Water Program		25 MoReg 152		
10 CSR 60-4.055	Public Drinking Water Program		25 MoReg 156		
10 CSR 60-4.090	Public Drinking Water Program		25 MoReg 161		
10 CSR 60-5.010	Public Drinking Water Program		24 MoReg 1870	This Issue	
10 CSR 60-5.020	Public Drinking Water Program		25 MoReg 176		
10 CSR 60-6.010	Public Drinking Water Program		24 MoReg 1878	This Issue	
10 CSR 60-6.020	Public Drinking Water Program		24 MoReg 1880	This Issue	
10 CSR 60-6.030	Public Drinking Water Program		24 MoReg 1886	This Issue	
10 CSR 60-6.070	Public Drinking Water Program		24 MoReg 1887	This Issue	
10 CSR 60-7.010	Public Drinking Water Program		25 MoReg 181		
10 CSR 60-8.010	Public Drinking Water Program		25 MoReg 187		
10 CSR 60-8.030	Public Drinking Water Program		24 MoReg 1899	This Issue	
10 CSR 70-5.060	Soil and Water Districts Commission				23 MoReg 2267S
10 CSR 80-9.040	Solid Waste Management		25 MoReg 191		
10 CSR 80-9.050	Solid Waste Management		25 MoReg 197		
10 CSR 140-2	Division of Energy				24 MoReg 2243
	DEPARTMENT OF PUBLIC SAFETY				
11 CSR 45-1.090	Missouri Gaming Commission		24 MoReg 1652	24 MoReg 2843	
11 CSR 45-5.010	Missouri Gaming Commission		This Issue		
11 CSR 45-5.051	Missouri Gaming Commission		This Issue		
11 CSR 45-9.030	Missouri Gaming Commission		24 MoReg 1652 24 MoReg 2765	24 MoReg 2843	
11 CSR 45-10.035	Missouri Gaming Commission		This Issue		
11 CSR 45-10.150	Missouri Gaming Commission	24 MoReg 2936		24 MoReg 2961	
11 CSR 45-13.055	Missouri Gaming Commission	24 MoReg 2124	This Issue	24 MoReg 2144	
11 CSR 45-30.180	Missouri Gaming Commission		24 MoReg 2768		
11 CSR 45-30.190	Missouri Gaming Commission		24 MoReg 2768		
11 CSR 45-30.210	Missouri Gaming Commission		24 MoReg 2768		
11 CSR 45-30.220	Missouri Gaming Commission		24 MoReg 2769		
11 CSR 45-30.280	Missouri Gaming Commission		24 MoReg 2769		
11 CSR 45-30.370	Missouri Gaming Commission		24 MoReg 2769		
11 CSR 50-2.350	Missouri State Highway Patrol	24 MoReg 2747R		24 MoReg 2770R	
11 CSR 50-2.360	Missouri State Highway Patrol	24 MoReg 2747R		24 MoReg 2770R	
11 CSR 50-2.370	Missouri State Highway Patrol	24 MoReg 2748R		24 MoReg 2771R	
11 CSR 50-2.380	Missouri State Highway Patrol	24 MoReg 2748R		24 MoReg 2771R	
11 CSR 50-2.390	Missouri State Highway Patrol	24 MoReg 2749R		24 MoReg 2771R	
11 CSR 50-2.400	Missouri State Highway Patrol	This Issue		This Issue	
11 CSR 50-2.401	Missouri State Highway Patrol	24 MoReg 2749R		24 MoReg 2772R	
11 CSR 50-2.402	Missouri State Highway Patrol	24 MoReg 2749R		24 MoReg 2772R	
11 CSR 50-2.403	Missouri State Highway Patrol	24 MoReg 2750R		24 MoReg 2772R	
11 CSR 50-2.404	Missouri State Highway Patrol	24 MoReg 2750R		24 MoReg 2772R	
11 CSR 50-2.405	Missouri State Highway Patrol	24 MoReg 2750R		24 MoReg 2773R	
11 CSR 50-2.406	Missouri State Highway Patrol	24 MoReg 2751R		24 MoReg 2773R	
11 CSR 50-2.407	Missouri State Highway Patrol	24 MoReg 2751R		24 MoReg 2773R	
11 CSR 50-2.410	Missouri State Highway Patrol	24 MoReg 2751R		24 MoReg 2773R	
11 CSR 50-2.420	Missouri State Highway Patrol	24 MoReg 2752R		24 MoReg 2774R	
11 CSR 60-1.070	Division of Highway Safety		25 MoReg 18		
11 CSR 70-2.190	Division of Liquor Control		24 MoReg 2390	This Issue	
11 CSR 75-3.010	Peace Officer Standards and Training		24 MoReg 2963		
11 CSR 75-3.020	Peace Officer Standards and Training		24 MoReg 2963		
11 CSR 75-3.030	Peace Officer Standards and Training		24 MoReg 2963		
11 CSR 75-3.050	Peace Officer Standards and Training		24 MoReg 2967		
11 CSR 75-3.060	Peace Officer Standards and Training		24 MoReg 2967		
11 CSR 75-3.070	Peace Officer Standards and Training		24 MoReg 2968		
11 CSR 75-3.080	Peace Officer Standards and Training		24 MoReg 2968		
11 CSR 75-10.010	Peace Officer Standards and Training		24 MoReg 2969		
11 CSR 75-10.020	Peace Officer Standards and Training		24 MoReg 2969		
11 CSR 75-10.030	Peace Officer Standards and Training		24 MoReg 2969		
11 CSR 75-10.040	Peace Officer Standards and Training		24 MoReg 2970		
11 CSR 75-10.050	Peace Officer Standards and Training		24 MoReg 2970		
11 CSR 75-10.060	Peace Officer Standards and Training		24 MoReg 2970		
11 CSR 75-10.090	Peace Officer Standards and Training		24 MoReg 2971R		
11 CSR 75-10.100	Peace Officer Standards and Training		24 MoReg 2971		
11 CSR 75-11.040	Peace Officer Standards and Training	24 MoReg 2937		24 MoReg 2972	
11 CSR 80-1.010	Missouri State Water Patrol		This Issue		
11 CSR 80-2.010	Missouri State Water Patrol		This Issue		
11 CSR 80-3.010	Missouri State Water Patrol		This Issue		
11 CSR 80-3.020	Missouri State Water Patrol		This Issue		
11 CSR 80-4.010	Missouri State Water Patrol		This Issue		
11 CSR 80-6.010	Missouri State Water Patrol		This Issue		
11 CSR 80-7.010	Missouri State Water Patrol		This Issue		
11 CSR 80-8.010	Missouri State Water Patrol		This Issue		
11 CSR 80-5.010	Missouri State Water Patrol		24 MoReg 2774		
	DEPARTMENT OF REVENUE				
12 CSR	Construction Transient Employers				24 MoReg 2087
12 CSR 10-2.015	Director of Revenue	25 MoReg 5	25 MoReg 18		
12 CSR 10-2.240	Director of Revenue		24 MoReg 2632		
12 CSR 10-3.003	Director of Revenue		24 MoReg 2051R	24 MoReg 2845R	

Rule Number	Agency	Emergency	Proposed	Order	In Addition
12 CSR 10-3.056	Director of Revenue		24 MoReg 2051R	24 MoReg 2845R	
12 CSR 10-3.106	Director of Revenue		24 MoReg 2051R	24 MoReg 2845R	
12 CSR 10-3.108	Director of Revenue		24 MoReg 2051R	24 MoReg 2845R	
12 CSR 10-3.316	Director of Revenue		24 MoReg 2052R	24 MoReg 2846R	
12 CSR 10-3.318	Director of Revenue		24 MoReg 2052R	24 MoReg 2846R	
12 CSR 10-3.320	Director of Revenue		24 MoReg 2052R	24 MoReg 2846R	
12 CSR 10-3.324	Director of Revenue		24 MoReg 2052R	24 MoReg 2846R	
12 CSR 10-3.326	Director of Revenue		24 MoReg 2053R	24 MoReg 2846R	
12 CSR 10-3.327	Director of Revenue		24 MoReg 2053R	24 MoReg 2846R	
12 CSR 10-3.460	Director of Revenue	25 MoReg 144			
12 CSR 10-3.848	Director of Revenue		24 MoReg 2053R	24 MoReg 2847R	
12 CSR 10-4.295	Director of Revenue		24 MoReg 2053R	24 MoReg 2847R	
12 CSR 10-5.015	Director of Revenue		24 MoReg 2973R		
12 CSR 10-5.020	Director of Revenue		24 MoReg 2973R		
12 CSR 10-5.035	Director of Revenue		24 MoReg 2974R		
12 CSR 10-5.105	Director of Revenue		24 MoReg 2974R		
12 CSR 10-5.520	Director of Revenue		24 MoReg 2974R		
12 CSR 10-11.030	Director of Revenue		24 MoReg 2974R		
12 CSR 10-11.040	Director of Revenue		24 MoReg 2975R		
12 CSR 10-11.090	Director of Revenue		24 MoReg 2975R		
12 CSR 10-11.190	Director of Revenue		24 MoReg 2975R		
12 CSR 10-11.200	Director of Revenue		24 MoReg 2975R		
12 CSR 10-11.210	Director of Revenue		24 MoReg 2976R		
12 CSR 10-11.220	Director of Revenue		24 MoReg 2976R		
12 CSR 10-11.230	Director of Revenue		24 MoReg 2976R		
12 CSR 10-23.446	Director of Revenue	24 MoReg 2270	24 MoReg 2391	25 MoReg 212	
12 CSR 10-23.450	Director of Revenue		24 MoReg 2775		
12 CSR 10-24.050	Director of Revenue		24 MoReg 2976		
12 CSR 10-24.430	Director of Revenue		24 MoReg 2391	25 MoReg 212	
12 CSR 10-26.010	Director of Revenue		24 MoReg 2776		
12 CSR 10-26.020	Director of Revenue		24 MoReg 2779		
12 CSR 10-26.030	Director of Revenue		24 MoReg 2781		
12 CSR 10-26.040	Director of Revenue		24 MoReg 2784		
12 CSR 10-26.050	Director of Revenue		24 MoReg 2787		
12 CSR 10-26.060	Director of Revenue		24 MoReg 2789		
12 CSR 10-26.070	Director of Revenue		24 MoReg 2791		
12 CSR 10-26.080	Director of Revenue		24 MoReg 2793		
12 CSR 10-26.090	Director of Revenue		24 MoReg 2795		
12 CSR 10-26.100	Director of Revenue		24 MoReg 2797		
12 CSR 10-26.110	Director of Revenue		24 MoReg 2799		
12 CSR 10-26.120	Director of Revenue		24 MoReg 2801		
12 CSR 10-26.130	Director of Revenue		24 MoReg 2803		
12 CSR 10-26.140	Director of Revenue		24 MoReg 2805		
12 CSR 10-26.150	Director of Revenue		24 MoReg 2807		
12 CSR 10-26.160	Director of Revenue		24 MoReg 2809		
12 CSR 10-26.170	Director of Revenue		24 MoReg 2811		
12 CSR 10-41.010	Director of Revenue	24 MoReg 2938	24 MoReg 2977		
12 CSR 10-43.020	Director of Revenue		24 MoReg 2230	25 MoReg 113	
12 CSR 10-43.030	Director of Revenue		24 MoReg 2230	25 MoReg 113	
12 CSR 10-101.500	Director of Revenue		25 MoReg 19		
12 CSR 10-103.200	Director of Revenue		This Issue		
12 CSR 10-103.610	Director of Revenue		This Issue		
12 CSR 10-103.360	Director of Revenue		24 MoReg 2977		
12 CSR 10-103.390	Director of Revenue		24 MoReg 2978		
12 CSR 10-103.500	Director of Revenue		24 MoReg 2979		
12 CSR 10-109.050	Director of Revenue		24 MoReg 2980		
12 CSR 10-110.900	Director of Revenue		25 MoReg 20		
12 CSR 10-110.910	Director of Revenue		This Issue		
12 CSR 10-110.920	Director of Revenue		This Issue		
12 CSR 10-111.010	Director of Revenue		24 MoReg 2392	This Issue	
12 CSR 10-111.013	Director of Revenue		24 MoReg 2632		
12 CSR 10-111.016	Director of Revenue		24 MoReg 2634		
12 CSR 10-111.060	Director of Revenue		25 MoReg 23		
12 CSR 10-112.300	Director of Revenue		24 MoReg 2981		
12 CSR 30-1.030	State Tax Commission		24 MoReg 2695		
12 CSR 30-2.017	State Tax Commission		24 MoReg 2696		
12 CSR 30-2.018	State Tax Commission		24 MoReg 2702		
12 CSR 30-3.085	State Tax Commission		24 MoReg 2054	24 MoReg 2847	
12 CSR 30-4.010	State Tax Commission		This Issue		
12 CSR 60-1.010	Motor Vehicle Commission		24 MoReg 2702R		
12 CSR 60-1.020	Motor Vehicle Commission		24 MoReg 2702R		
12 CSR 60-1.030	Motor Vehicle Commission		24 MoReg 2702R		
12 CSR 60-1.040	Motor Vehicle Commission		24 MoReg 2703R		
12 CSR 60-1.050	Motor Vehicle Commission		24 MoReg 2703R		
12 CSR 60-1.060	Motor Vehicle Commission		24 MoReg 2703R		
12 CSR 60-2.010	Motor Vehicle Commission		24 MoReg 2704R		
12 CSR 60-2.020	Motor Vehicle Commission		24 MoReg 2704R		
12 CSR 60-2.030	Motor Vehicle Commission		24 MoReg 2704R		
12 CSR 60-2.040	Motor Vehicle Commission		24 MoReg 2704R		
12 CSR 60-2.050	Motor Vehicle Commission		24 MoReg 2705R		
12 CSR 60-2.060	Motor Vehicle Commission		24 MoReg 2705R		
12 CSR 60-2.070	Motor Vehicle Commission		24 MoReg 2705R		
12 CSR 60-2.080	Motor Vehicle Commission		24 MoReg 2705R		

Rule Number	Agency	Emergency	Proposed	Order	In Addition
12 CSR 60-2.090	Motor Vehicle Commission		24 MoReg 2706R		
12 CSR 60-2.100	Motor Vehicle Commission		24 MoReg 2706R		
12 CSR 60-2.110	Motor Vehicle Commission		24 MoReg 2706R		
12 CSR 60-2.120	Motor Vehicle Commission		24 MoReg 2706R		
12 CSR 60-2.130	Motor Vehicle Commission		24 MoReg 2707R		
12 CSR 60-2.140	Motor Vehicle Commission		24 MoReg 2707R		
12 CSR 60-2.150	Motor Vehicle Commission		24 MoReg 2707R		
12 CSR 60-2.160	Motor Vehicle Commission		24 MoReg 2708R		
12 CSR 60-2.170	Motor Vehicle Commission		24 MoReg 2708R		
12 CSR 60-3.010	Motor Vehicle Commission		24 MoReg 2708R		
12 CSR 60-4.010	Motor Vehicle Commission		24 MoReg 2708R		
12 CSR 60-4.020	Motor Vehicle Commission		24 MoReg 2709R		
12 CSR 60-4.030	Motor Vehicle Commission		24 MoReg 2709R		
12 CSR 60-4.040	Motor Vehicle Commission		24 MoReg 2709R		
12 CSR 60-4.050	Motor Vehicle Commission		24 MoReg 2710R		
12 CSR 60-4.060	Motor Vehicle Commission		24 MoReg 2710R		
12 CSR 60-4.070	Motor Vehicle Commission		24 MoReg 2710R		
12 CSR 60-4.080	Motor Vehicle Commission		24 MoReg 2710R		
12 CSR 60-5.010	Motor Vehicle Commission		24 MoReg 2711R		
	DEPARTMENT OF SOCIAL SERVICES				
13 CSR 15-14.012	Division of Aging	24 MoReg 1473	24 MoReg 2054	24 MoReg 2847	
13 CSR 15-14.022	Division of Aging	24 MoReg 1474	24 MoReg 2054	24 MoReg 2847	
13 CSR 40-2.300	Division of Family Services	23 MoReg 2133T			
13 CSR 40-2.305	Division of Family Services	23 MoReg 2133T			
13 CSR 40-2.310	Division of Family Services	23 MoReg 2133T			
13 CSR 40-2.315	Division of Family Services	23 MoReg 2133T			
13 CSR 40-2.320	Division of Family Services	23 MoReg 2134T			
13 CSR 40-2.325	Division of Family Services	23 MoReg 2134T			
13 CSR 40-2.330	Division of Family Services	23 MoReg 2134T			
13 CSR 40-2.335	Division of Family Services	23 MoReg 2134T			
13 CSR 40-2.340	Division of Family Services	23 MoReg 2134T			
13 CSR 40-2.345	Division of Family Services	23 MoReg 2134T			
13 CSR 40-2.350	Division of Family Services	23 MoReg 2134T			
13 CSR 40-2.355	Division of Family Services	23 MoReg 2135T			
13 CSR 40-2.360	Division of Family Services	23 MoReg 2135T			
13 CSR 40-2.365	Division of Family Services	23 MoReg 2135T			
13 CSR 40-2.370	Division of Family Services	23 MoReg 2135T			
13 CSR 40-19.020	Division of Family Services	24 MoReg 2270	24 MoReg 2394		
13 CSR 40-80.010	Division of Family Services		24 MoReg 2395		
13 CSR 70-3.020	Medical Services		23 MoReg 1191 24 MoReg 1742		
13 CSR 70-3.030	Medical Services		24 MoReg 1743		
13 CSR 70-3.130	Medical Services		24 MoReg 1747		
13 CSR 70-4.080	Medical Services		24 MoReg 2396		
13 CSR 70-4.080(5)	Medical Services		24 MoReg 2398		
13 CSR 70-4.090	Medical Services	24 MoReg 2569	24 MoReg 2399 24 MoReg 2675T		
13 CSR 70-10.015(13)	Medical Services	24 MoReg 2572	24 MoReg 2401	This Issue	
13 CSR 70-10.040	Medical Services		24 MoReg 1672	24 MoReg 2847	
13 CSR 70-10.080	Medical Services	24 MoReg 2574	24 MoReg 2404	This Issue	
13 CSR 70-10.110	Medical Services	24 MoReg 2575	24 MoReg 2406	This Issue	
13 CSR 70-15.010	Medical Services		24 MoReg 1916 24 MoReg 2408 24 MoReg 2938 25 MoReg 204	24 MoReg 2849	
13 CSR 70-15.110	Medical Services	24 MoReg 1026	24 MoReg 2411		
13 CSR 73-2.015	Board of Nursing Home Administrators	24 MoReg 2752	24 MoReg 2813		
13 CSR 73-2.020	Board of Nursing Home Administrators	24 MoReg 2753	24 MoReg 2816		
13 CSR 73-2.070	Board of Nursing Home Administrators	24 MoReg 2753	24 MoReg 2819		
	ELECTED OFFICIALS				
15 CSR 30-4.010	Secretary of State		24 MoReg 2413	25 MoReg 212	
15 CSR 30-15.010	Secretary of State		24 MoReg 2417	25 MoReg 212	
15 CSR 30-15.020	Secretary of State		24 MoReg 2417	25 MoReg 212	
15 CSR 30-45.030	Secretary of State		24 MoReg 2147R 24 MoReg 2147	25 MoReg 113R 25 MoReg 113	
15 CSR 30-150.010	Secretary of State *(Changed to 12 CSR 10-9.100)*				24 MoReg 2989
15 CSR 30-150.020	Secretary of State *(Changed to 12 CSR 10-9.110)*				24 MoReg 2989
15 CSR 30-150.030	Secretary of State *(Changed to 12 CSR 10-9.120)*				24 MoReg 2989
15 CSR 30-150.040	Secretary of State *(Changed to 12 CSR 10-9.130)*				24 MoReg 2989
15 CSR 30-150.110	Secretary of State *(Changed to 12 CSR 10-9.140)*				24 MoReg 2989
15 CSR 30-150.120	Secretary of State *(Changed to 12 CSR 10-9.150)*				24 MoReg 2989
15 CSR 30-150.130	Secretary of State *(Changed to 12 CSR 10-9.160)*				24 MoReg 2989
15 CSR 30-150.140	Secretary of State *(Changed to 12 CSR 10-9.170)*				24 MoReg 2989
15 CSR 30-150.150	Secretary of State *(Changed to 12 CSR 10-9.180)*				24 MoReg 2989
15 CSR 30-150.160	Secretary of State *(Changed to 12 CSR 10-9.190)*				24 MoReg 2989
15 CSR 30-150.170	Secretary of State *(Changed to 12 CSR 10-9.200)*				24 MoReg 2989

Emergency Rules in Effect as of February 1, 2000 — Expires

Office of Administration
Commissioner of Administration

1 CSR 10-15.010	Cafeteria Plan	June 28, 2000

Department of Agriculture

Market Development

2 CSR 10-5.005	Price Reporting Requirements for Livestock Purchases by Packers	March 2, 2000

State Milk Board

2 CSR 80-2.180	Adoption of the *Grade A Pasteurized Milk Ordinance* with Administrative Procedures—Recommendations of the United States Public Health Service/Food and Drug Administration (PMO)	May 1, 2000

Missouri Agricultural and Small Business Development Authority

2 CSR 100-8.010	Description of Operation, Definitions, Applicant Requirements, Procedures for Grant Approval, Funding of Grants, and Amending the Rules for the Missouri Value-Added Grant Program	February 24, 2000

Department of Transportation

Missouri Highways and Transportation Commission

7 CSR 10-2.010	Overdimension and Overweight Permits	May 16, 2000
7 CSR 10-2.010	Overdimension and Overweight Permits	May 16, 2000
7 CSR 10-10.010	Definitions	May 16, 2000
7 CSR 10-10.040	Contractor Performance Questionnaire Used in Evaluating Contractor Performance	May 16, 2000
7 CSR 10-10.050	Procedure and Schedule for Completing the Contractor Performance Questionnaire	May 16, 2000
7 CSR 10-10.070	Procedure for Annual Rating of Contractors	May 16, 2000

Department of Labor and Industrial Relations

Missouri Commission on Human Rights

8 CSR 60-3.040	Employment Practices Related to Men and Women	Terminated December 29, 1999

Department of Mental Health

Certification Standards

9 CSR 30-4.030	Certification Standards Definitions	February 17, 2000
9 CSR 30-4.034	Personnel and Staff Development	February 17, 2000
9 CSR 30-4.035	Client Records of a Community Psychiatric Rehabilitation Program	February 17, 2000
9 CSR 30-4.039	Service Provision	February 17, 2000
9 CSR 30-4.042	Admission Criteria	February 17, 2000
9 CSR 30-4.043	Treatment Provided by a Community Psychiatric Rehabilitation Program	February 17, 2000

Department of Natural Resources

Air Conservation Commission

10 CSR 10-5.380	Motor Vehicle Emissions Inspection	June 28, 2000

Public Drinking Water Program

10 CSR 60-3.010	Construction Authorization, Final Approval of Construction Owner-Supervised Program and Permit to Dispense Water	March 27, 2000
10 CSR 60-3.020	Continuing Operating Authority	March 27, 2000
10 CSR 60-3.030	Technical, Managerial, and Financial Capacity	March 27, 2000

Department of Public Safety

Missouri Gaming Commission

11 CSR 45-10.150	Child Care Facilities—License Required	June 7, 2000
11 CSR 45-13.055	Immediate Revocation or Suspension of License—Expedited Hearing	February 24, 2000

Missouri State Highway Patrol

11 CSR 50-2.350	Applicability of Motor Vehicle Emission Inspection	June 28, 2000
11 CSR 50-2.360	Emission Fee	June 28, 2000
11 CSR 50-2.370	Inspection Station Licensing	June 28, 2000
11 CSR 50-2.380	Inspector/Mechanic Licensing	June 28, 2000
11 CSR 50-2.390	Safety/Emission Stickers	June 28, 2000
11 CSR 50-2.401	General Specifications	June 28, 2000
11 CSR 50-2.402	MAS Software Functions	June 28, 2000
11 CSR 50-2.403	Missouri Analyzer System (MAS) Display and Program Requirements	June 28, 2000

19 CSR 30-70.140	Application Process and Requirements for the Licensure of Risk Assessors	February 25, 2000
19 CSR 30-70.150	Application Process and Requirements for the Licensure of Lead Abatement Workers	February 25, 2000
19 CSR 30-70.160	Application Process and Requirements for the Licensure of Lead Abatement Supervisors	February 25, 2000
19 CSR 30-70.170	Application Process and Requirements for the Licensure of Project Designers	February 25, 2000
19 CSR 30-70.180	Application Process and Licensure Renewal Requirements for Lead Abatement Contractors	February 25, 2000
19 CSR 30-70.190	Renewal of Lead Occupation Licenses	February 25, 2000
19 CSR 30-70.195	Application Process and Requirements for Re-application After License Expiration	February 25, 2000
19 CSR 30-70.200	Application Process and Requirements for the Licensure of Risk Assessors Who Possessed a Valid Missouri Lead Inspector License on August 28, 1998	February 25, 2000
19 CSR 30-70.310	Definitions and Abbreviations for the Accreditation of Training Providers	February 25, 2000
19 CSR 30-70.320	Accreditation of Training Providers for Training Courses	February 25, 2000
19 CSR 30-70.330	Requirements for a Training Provider of a Lead Inspector Training Course	February 25, 2000
19 CSR 30-70.340	Requirements for a Training Provider of a Risk Assessor Training Course	February 25, 2000
19 CSR 30-70.350	Requirements for a Training Provider of a Lead Abatement Worker Training Course	February 25, 2000
19 CSR 30-70.360	Requirements for a Training Provider of a Lead Abatement Supervisor Training Course	February 25, 2000
19 CSR 30-70.370	Requirements for a Training Provider of a Project Designer Training Course	February 25, 2000
19 CSR 30-70.380	Requirements for the Accreditation of Refresher Courses	February 25, 2000
19 CSR 30-70.390	Re-accreditation of a Training Course or Refresher Course	February 25, 2000
19 CSR 30-70.400	Suspension, Revocation, and Restriction of Accredited Training Providers	February 25, 2000
19 CSR 30-70.510	Standard of Professional Conduct	February 25, 2000
19 CSR 30-70.520	Public Complaint Handling and Disposition Procedure	February 25, 2000
19 CSR 30-70.600	Definitions Pertaining to the Work Practice Standards for Conducting Lead-Bearing Substance Activities	February 25, 2000
19 CSR 30-70.610	Work Practice Standards for a Lead Inspection	February 25, 2000
19 CSR 30-70.620	Work Practice Standards for a Lead Risk Assessment	February 25, 2000
19 CSR 30-70.630	Lead Abatement Work Practice Standards	February 25, 2000
19 CSR 30-70.640	Project Notification for Industrial Lead Abatement Projects	February 25, 2000
Division of Maternal, Child and Family Health		
19 CSR 40-3.010	Administration of the SIDS Program	February 24, 2000

Missouri Consolidated Health Care Plan

Health Care Plan		
22 CSR 10-2.010	Definitions	June 28, 2000
22 CSR 10-2.020	Membership Agreement and Participation Period.	June 28, 2000
22 CSR 10-2.040	Indemnity Plan Summary of Medical Benefits	Terminated January 14, 2000
22 CSR 10-2.040	Indemnity Plan Summary of Medical Benefits.	June 28, 2000
22 CSR 10-2.050	Indemnity Plan Benefit Provisions and Covered Charges	June 28, 2000
22 CSR 10-2.060	Indemnity Plan Limitations	June 28, 2000
22 CSR 10-2.063	HMO/POS/POS98 Summary of Medical Benefits	Terminated January 14, 2000
22 CSR 10-2.063	HMO/POS/POS98 Summary of Medical Benefits	June 28, 2000
22 CSR 10-2.075	Review and Appeals Procedure	June 28, 2000

The rule number and the MoReg publication date follow each entry to this index.

The *official* source of information on Missouri state regulations

PUBLISHED SEMI-MONTHLY — 56^{00} PER YEAR

ORDER FORM

☐ **Enclosed is my check for $56 as payment in advance for one year of the *Missouri Register***

Please start my subscription with the _____ issue.
(Back issues are available to May 1976, Vol. 1, No. 1)

☐ **Enclosed is my check for $330 for the *Code of State Regulations***

☐ **This is a subscription renewal**

Please make checks payable to: **Director of Revenue**

Mail to: **Rebecca McDowell Cook**
Secretary of State
Administrative Rules Division
P.O. Box 1767
Jefferson City, MO 65102

_____
name or firm (please type or print) **attn:**

_____
P.O. box number

_____
street address **city** **state** **zip**

BEFORE YOU MOVE

. . . please let us know!

To be sure that you do not miss any issues of your ***Missouri Register*** subscription, please notify us at least four weeks before you move to your new address.

1. Present address
   Attach address label from a recent issue, or print name and address exactly as shown on the label.

_____
Name

_____
Address

_____
City State Zip

2. Fill in new address

_____
Name

_____
Address

_____
City State Zip

Rebecca McDowell Cook
Secretary of State
P.O. Box 1767
Jefferson City, MO 65102

Periodical
Postage Paid at
Jefferson City,
MO